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Monday
October 15, 1984

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federal register

Monday
October 15, 1984

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Federal Communications Commission

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Elementary and Secondary Education
Education Department

Employee Benefit Plans
Pension Benefit Guaranty Corporation

Marine Safety
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Agricultural Marketing Service

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Agricultural Marketing Service

Mortgage Insurance
Housing and Urban Development Department

Motor Vehicle Pollution
Environmental Protection Agency

Oil and Gas Exploration
Land Management Bureau

Quarantine
Animal and Plant Health Inspection Service

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-354]

Mediterranean Fruit Fly; Reduction of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends "Subpart—Mediterranean Fruit Fly" of the domestic quarantine notices by deleting a portion of Dade County, Florida from the list of regulated areas. The effect of this action is to remove restrictions on the interstate movement of regulated articles from this portion of Dade County, Florida. This action is necessary because such restrictions are no longer needed to prevent the interstate spread of Mediterranean fruit fly.

DATES: Effective date of this amendment October 10, 1984. Written comments concerning this interim rule must be received on or before December 14, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glenn Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document is in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This amendment deletes restrictions that had been imposed on the interstate movement of regulated articles from a portion of Dade County, Florida, approximately 54 square miles in size. It appears that there is very little commercial activity that occurs in this area. Specifically, it is comprised of private residences and small entities including approximately 71 nurseries and 150 small businesses including retail stores, street vendors, and open fruit stands. Although these are small entities, they sell regulated articles primarily for local intrastate, not interstate, movement. Further, the retail shops and nurseries sell other items in addition to the regulated articles so that the effect, if any, of deleting restrictions on the interstate movement of articles sold by these entities appears to be minimal.

Background

A document published on July 3, 1984 (49 FR 27478-27485) amended the "Domestic Quarantine Notices" by adding a new Subpart 301.65 which quarantined the State of Florida and established regulations restricting the interstate movement of regulated articles out of a regulated area in Dade County, Florida. This amendment was necessary to prevent the artificial spread into noninfested areas of the United States of Mediterranean fruit fly, *Ceratitus capitata* (Wiedemann), a dangerous plant pest which infests numerous fruits and vegetables, especially citrus fruits. The portion of Dade County listed as a regulated area prior to the publication of this document was approximately 81 square miles in size and was bordered on the east by Biscayne Bay and on the northwest by the Miami International Airport, and included much of the city of Miami.

Based on trapping and sampling surveys conducted by inspectors of the United States Department of Agriculture and the Florida Department of Agriculture and Consumer Services, it has been determined that Mediterranean fruit fly has been eradicated from all but the following 27 square mile portion of Dade County:

That part of Dade County beginning at a point 200 feet north of where Interstate 95 intersects Northwest 62nd Street; then east along an imaginary line 200 feet north of Northwest 62nd Street to where it becomes

Northeast 62nd Street and east along and imaginary line 200 feet north of Northeast 62nd Street to its intersection with Northeast 2nd Avenue; then south along an imaginary line 200 feet east of Northeast 2nd Avenue to its intersection with Northeast 61st Street; then east along an imaginary line 200 feet north of Northeast 61st Street to its intersection with Biscayne Bay; then southeasterly along and imaginary line to the northern point of Di Lido Island; then southerly along the east side of Di Lido Island to its southern point; then southeasterly along an imaginary line from Di Lido Island to the northwest corner of Fishers' Island; then southwesterly along an imaginary line from the northwest corner of Fishers' Island to the point where Rickenbacker Causeway intersects the mainland; then westerly along the causeway to its intersection with Brickell Avenue and then northwest along an imaginary line 200 feet west of the causeway along 26th Road to its intersection with Interstate 95; and northwest along an imaginary line 200 feet south of 26th Road; and then northwesterly along Interstate 95 and northwesterly along an imaginary line 200 feet west of Interstate 95 to the point of beginning.

Under the circumstances, there is no longer a basis for imposing restrictions on the movement of articles from Dade County, except for the area described above. Therefore, because Mediterranean fruit fly no longer occurs in any other area of Dade County, this document deletes from the portion of Dade County listed as a regulated area prior to the publication of this document all areas except as described above.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean Fruit Fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, § 301.65–3(c) of the Mediterranean Fruit Fly Quarantine and Regulations in 7 CFR Part 301.65–3(c) is revised to read as follows:

§ 301.65–3 Regulated areas.

* * * * *

(c) The areas described below are designated as regulated areas:

Florida

Dade County. That part of Dade County beginning at a point 200 feet north of where Interstate 95 intersects Northwest 62nd Street; then east along an imaginary line 200 feet north of Northwest 62nd Street to where it becomes Northeast 62nd Street and east along an imaginary line 200 feet north of Northeast 62nd Street to its intersection with Northeast 2nd Avenue; then south along an imaginary line 200 feet east of Northeast 2nd Avenue to its intersection with Northeast 61st Street; then east along an imaginary line 200 feet north of Northeast 61st Street to its intersection with Biscayne Bay; then southeasterly along an imaginary line to the northern point of Di Lido Island; then southerly along the east side of Di Lido Island to its southern point; then southeasterly along an imaginary line from Di Lido Island to the northwest corner of Fishers' Island; then southwesterly along an imaginary line from the northwest corner of Fishers' Island to the point where Rickenbacker Causeway intersects the mainland; then westerly along the causeway to its intersection with Brickell Avenue and then northwest along an imaginary line 200 feet west of the causeway along 26th Road to its intersection with Interstate 95; and northwest along an imaginary line 200 feet south of 26th Road; and then northwesterly along Interstate 95 and northwesterly along an imaginary line 200 feet west of Interstate 95 to the point of beginning.

(Authority.—Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51 and 371.2.

Done at Washington, D.C., this 10th day of October, 1984.

W.F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–27190 Filed 10–12–84; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84–AWP–8]

Establishment of the Reveille, NV, Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes controlled airspace north of VOR Federal Airway V–244 between Tonopah, NV, and Wilson Creek, NV, to enable aircraft operating under air traffic control (ATC) to remain within controlled airspace while being routed around airspace routinely utilized for military exercises.

EFFECTIVE DATE: 0901 GMT, December 20, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On July 18, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish controlled airspace between Tonopah, NV, and Wilson Creek, NV, north of VOR Federal Airway V–244 and referred to that airspace as the Reveille, NV, Additional Control Area (49 FR 29105). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the airspace as proposed in the notice with one exception. The upper limit of the Reveille Additional Control Area is established at 14,500 feet MSL vice 18,000 feet MSL as proposed since the Continental Control Area already exists from 14,500 feet MSL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Additional control areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

Reveille, NV [NEW]

That airspace extending upward from 11,500 feet MSL to 14,500 feet MSL within the area bounded by a line beginning at lat. 38°14'00" N., long. 117°00'00" W.; to lat. 38°26'00" N., long. 116°24'20" W.; to lat. 38°30'15" N., long. 114°24'45" W.; to lat.

38°20'20" N., long. 114°09'15" W.; to lat. 38°14'00" N., long. 115°28'10" W.; to lat. 38°13'30" N., long. 116°00'00" W., to lat. 38°09'55" N., long. 116°20'50" W.; to lat. 38°08'10" N., long. 116°34'45" W.; to lat. 38°16'50" N., long. 116°35'50" W.; to the point of beginning.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, DC, on October 8, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-27135 Filed 10-12-84; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 16

Commercial Categories for Option Traders

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule Related Notice.

SUMMARY: On January 10, 1983, the Commission published in the **Federal Register** notification of the availability of its revised list of occupation categories (48 FR 1047). This list, as amended on February 3, 1984 (49 FR 4200), forms the basis from which the Commission will measure commercial participation in the pilot program for domestic exchange-traded commodity options. Futures commission merchants and members of contract markets are required under Commission rule 1.37(a), 17 CFR 1.37(a) (1982), to record for each option customer account they carry an appropriate occupation category from a list of such categories set forth by the Commission and a symbol indicating whether the option customer is commercial or noncommercial. In order to accommodate options on domestic agricultural commodities, the Commission has determined to revise its current list of occupation categories by adding six new categories for grains and soybeans, Categories 26 through 31, and seven new categories for livestock, Categories 32 through 38.

In addition, in order to accommodate options trading in precious metals other than gold (including silver), the Commission has determined to change the name of the commodity classification "Gold" to "Precious Metals." Also, in order to accommodate options trading in crude oil and in petroleum products other than heating oil, the Commission has determined to change the name of the commodity classification "Heating Oil" to "Petroleum" and to amend the occupation categories for this classification by adding two new categories. Category 39, Crude Oil Producer, has been added to identify commercial entities that are involved in the exploration and production of crude oil. Category 40, Crude Oil Reseller, has been added to identify commercial entities that are involved in the purchasing and reselling of crude oil. In addition, the Commission has determined to change the name of Category 13 from Distributor to Product Marketer and/or Distributor to clarify that this occupation category includes all commercial entities that purchase and resell petroleum products including jobbers, resellers and marketers as well as distributors.

As is the case with the existing categories, the appropriate classification for a customer is based on the primary activity of the customer in using the option market in conjunction with its cash market activities.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Chief, Agricultural Commodities Unit, or Rick Shilts, Chief, Natural Resources Unit, Division of Economic Analysis, (202) 254-7303, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: The Commission has revised the list of occupational categories for determining commercial participation in its pilot program for options as follows:

Commodity	Occupation categories
Sugar	1. Producer. 2. Merchant or Dealer. 3. Refiner. 4. Manufacturer or Processor. 5. Other Commercial.
Precious Metals	6. Produce. 7. Refiner. 8. Dealer. 9. Commercial End User. 11. Other Commercial.[1]
Petroleum	39. Crude Oil Producer. 40. Crude Oil Reseller. 12. Refiner. 13. Product Marketer and/or Distributor. 14. End User. 15. Other Commercial.
Financial Instruments/Foreign Exchange.	16. Savings and Loan, Mortgage Bank and Thrift Institutions. 17. Commercial Bank. 18. Insurance Company. 19. Pension and Retirement Fund. 20. Mutual Fund. 21. Broker/Dealer. 22. Foundation and Endowment. 23. Other Commercial. 24. Importers/Exporters of Goods and Services.
	25. Investors/Issuers of Foreign Currency Denominated Securities.
Grains and Soybeans	26. Grain or Soybean Producer. 27. Producer Cooperatives. 28. Other Elevator Operator or Merchant. 29. Processor, Including Feed Manufacturing and Crushing. 30. Livestock Feeder or Producer. 31. Other Commercials.
Livestock	32. Farmers and Ranchers. 33. Commercial Feedlot Operators. 34. Non-Farmer Livestock Feeders. 35. Marketing Agencies and Commission Merchants. 36. Packers and Other Meat Processors. 37. Meat Wholesalers, Retailers, and Buyers. 38. Other Commercials.

[1] Category 10 intentionally blank.

Issued in Washington, D.C. on October 10, 1984.

Jean A. Webb,

Acting Secretary of the Commission.

[FR Doc. 84-27176 Filed 10-12-84; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-21383]

Computer Brokerage Systems

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Commission views on computer brokerage systems.

SUMMARY: This notice expresses the Commission's views on trading of securities through computer brokerage systems, in which investors are linked through personal computers (or similar systems) to broker-dealers. The Commission intends for this release to provide some guidance to those in the industry operating or considering operating a computer brokerage system.

DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: Michael J. Simon, Assistant Director, (202) 272-2405 or Robert L. D. Colby, Branch Chief, (202) 272-2857, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Congress directed the Commission to facilitate the development of a national market system for securities,[1] with the goal of,

[1] *See generally* Section 11A of the Securities Exchange Act of 1934 ("Act").

among other things, assuring economically efficient execution of transactions in securities.[2] As part of this responsibility, the Commission has monitored the recent development of systems that allow investors to send orders directly to their brokers through personal computers (referred to as "computer brokerage systems").[3] The Commission is publishing this release to make known its views on these systems.

I. Introduction

Computer brokerage systems have been developed by a number of entities that allow investors to communicate with broker-dealers through personal computers and computer networks.[4] In the first generation of these systems, investors can use the systems rather than the telephone to send orders to their brokers; in such systems the brokers physically must reroute the orders for execution. In the second generation of these systems, currently in the development stages, orders may be routed directly from the computer brokerage system to automated order routing and execution systems operated by various securities markets without physical handling by the broker.

As a general matter, the Commission believes that computer brokerage systems may benefit investors by increasing the efficiency of the order entry and execution process. As the Commission has reviewed the systems being developed or operated, however, several issues have arisen which the Commission believes should be highlighted. These issues are the use by investors of non-current market information for trading decisions, surveillance of trading activity, suitability of customer trades, and system safeguards. For the most part, these issues involve the application of existing regulatory requirements to the special situation of computer brokerage systems.

A. Market Information

The first issue concerns the type of market information provided by computer brokerage systems to investors. Most of these systems offer investors a choice between delayed last sale information at no additional charge, and current last sale information at an additional price, usually based on the subscriber fees charged by last sale and quotation services.[5] Under those conditions, many investors are likely to choose the less expensive delayed information. Where orders are entered outside of normal trading hours, these differences have no effect because both levels of information provide the closing price.[6] However, concerns do arise when investors rely entirely on delayed information during normal market hours. In that event, investment decisions may be effectuated by sending an order for execution through the computer brokerage system, without knowing whether any unusual price changes have occurred in a security during the delay period. In contrast, when an investor gives his broker an order by phone, the current price can be checked by the broker before the order is executed and any unusual price swings may be detected at that time.

The Commission believes that broker-dealers who operate computer brokerage systems which provide delayed price information, at a minimum, have an obligation to inform system users that the price information is not current and to advise them as to how they can obtain current market information when they want to check the price of a security before they place an order. In this regard, the Commission also believes that industry participants should consider the need for system safeguards which would deter investors from relying solely on delayed information in trading securities where significant price changes have recently occurred. Such safeguards may be particularly important in second generation computer brokerage systems where customer orders will be routed directly for automated execution in exchange or OTC markets without the manual intervention of a broker-dealer. In that case, customer orders based on delayed information could be executed near-instantaneously, without the possiblilty of any review of whether the market for the particular security has just shifted dramatically.[7]

The Commission believes that the industry, in consultation with the Commission, should take the initiative in this area. For discussion purposes, however, a number of possible safeguards are discussed below.

First, computer brokerage systems could be programmed to compare delayed prices to current prices when a market order is received, and to identify trades where the delayed and current price diverge by a significant percentage. If the computer system were operating exclusively as an order routing system, this function even could be performed manually. The account executive could then communicate this information back to the subscriber, either over the system or by telephone. If the computer system were linked to an automatic execution facility, the system could be programmed to withhold such orders from automatic execution to be handled manually after consulting with the customer. Alternatively, a firm could limit use of computer brokerage systems during market-hour trading to subscribers with current information.

An additional method of dealing with this issue has been suggested by several computer brokerage system operators in discussions with the Commission's Division of Market Regulation ("Division"). They suggested that the applicable information source, such as the CTA, could allow real-time information in a stock to be displayed as the last step after an order in the stock has been preliminarily entered through a computer brokerage system without charging the subscribers the real-time information fee. Such a display would provide investors a final check before sending orders; at the same time, it is argued that requiring full entry of an order before this information is obtained would make this system too cumbersome to be used regularly to access real-time information without charge.

The Commission believes that this idea warrants serious attention and encourages computer brokerage system operators to pursue this idea with

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[2] Section 11A(a)(1)(C)(i) of the Act.

[3] Videotex systems, *i.e.* interactive systems using cable television, also have the capability to offer computer-type brokerage systems.

[4] The Commission is not addressing in this release whether a company that provides communication and information services and transmits orders between investors and broker-dealers for a transaction related fee would be required to register as a broker-dealer under Section 15(a) of the Act.

[5] Last sale and quotation information is provided by various industry organizations, such as the Consolidated Tape Association ("CTA") for most listed last sale infomation, the Consolidated Quotation System ("CQS") for listed quotation information, the National Association of Securities Dealer's ("NASD") NASDAQ and MSI systems for over-the-counter information, and the Options Price Reporting Authority ("OPRA") for standardized option information. All these organizations charge fees for real-time information. Recently, these organizations have made efforts to allow greater investor access to real-time information by adopting special, lower fees for non-professionals. For example, CTA information on New York Stock Exchange listed stocks costs professionals $68.50 and non-professionals $7.50 for an initial terminal. The analagous CQS fees are between $58.50 and $90 for professionals and $6.00 for non-professionals. While these fees have greatly increased the ability of nonprofessionals to receive real-time information, the Commission believes that the level of these fees still prevents many computer brokerage system users from receiving real-time information.

[6] The Commission understands that at the current time these systems are used primarily to leave orders with brokers outside of normal trading hours.

[7] This concern is especially significant for securities like options, where even a small price change in the underlying security can lead to a substantial percentage change in the value of the option.

appropriate industry representatives.[8] While the Commission believes that the integrity of market information fees should be preserved, the Commission also believes that the exchanges and the NASD can preserve the essentials of their existing fee structures while providing non-professionals a reasonable way to check the continued validity of their orders before sending them throught computer brokerage systems.

B. Surveillance

The second issue raised by home brokerage systems is one of surveillance of customer trading. Existing rules which require a familiarity with one's customers and their trading activities,[9] and the retention of books and records,[10] are, if anything, more crucial in the context of computer brokerage systems where direct contact between investors and their brokers is reduced. Because of this lesser contact, additional efforts may be necessary to ensure that broker-dealers remain apprised of their customers' trading activities.[11] Moreover, if a computer brokerage system were to be used in conjunction with customer accounts represented by registered representatives ("RR") on commission, the RR's involvement in trades executed through the system should be monitored to ascertain, for instance, whether the trades had been recommended or solicited by the RR.

C. Suitability

The final concern is one of investor qualifications and suitability. Becuase these systems provide investors greater flexibility in trading, the Commission believes it is important that a broker-dealer use a high degree of care in making its initial determination regarding an investor's financial qualifications and his suitability for large and risky investments. The broker-dealer's interest in avoiding customer defaults, for which the broker-dealer remain ultimately responsible, should provide a substantial incentive for it to determine carefully the investor's financial qualifications both to trade specific instruments and to acquire large financial positions. Nevertheless, because this is not just a matter of good business but an essential element of investor protection and financial responsibility, the Commission emphasizes that broker-dealers should be mindful of this obligation.

Moreover, a further issue is raised to the extent that a broker-dealer or related entity provides investors research and analysis amounting to recommendations of individual securities through the computer brokerage system or accompanying data bases.[12] In this situation, the broker-dealer should be aware that it may be subject to regulatory standards regarding the suitability of recommendations of securities if orders are executed in these securities through a computer brokerage system or otherwise.[13] Accordingly, the Commission believes that it is important that broker-dealers make a careful determination of the suitability of a recommended security for particular investors.

D. System Safeguards

Finally, the Commission urges broker-dealers who operate computer brokerage systems to consider the need for system safeguards which would prevent unauthorized access to a customer's account, or information about that account, and which would enable a customer to reaffirm orders entered into such systems. The latter safeguard would reduce the chances of erroneous instructions entered by the customer from being carried out.

II. Conclusion

The Commission emphasizes its support for the development of these efficient order-entry and execution systems. The computer brokerage area, however, is experiencing rapid growth and consequently the application of existing regulatory standards in the area may be unclear. The Commission intends for this release to provide some guidance to those in the industry operating or considering operating a computer brokerage system. Of course, as this area develops, more questions and issues will arise. The Commission will be monitoring the area and will issue further releases if necessary. Moreover, as these systems develop, the Commmission urges industry participants to communicate with the Commission's Division of Market Regulation on any issues that arises.

List of Subjects in 17 CFR Part 241

Reporting and recordkeeping requirements, Securities.

PART 241—[AMENDED]

Part 241 of Title 17 of the Code of Federal Regulations is amended by adding this Notice of Commission Views on Computer Brokerage Systems (Release No. 34–21383) to the list of interpretative Releases.

By the Commission.

Dated: October 9, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27185 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

[8] The Division has written to the Chairman of the CTA and CQS endorsing this proposal as a useful starting point for discussions on this issue. *See* letter from Richard Ketchum, Director, Division, to Samuel Alward, Executive Vice President, New York Stock Exchange, and Chairman, CTA and CQS dated July 23, 1984.

[9] *See, e.g.*, New York Stock Exchange Rule 405; Article III, Section 1 of the NASD's Rules of Fair Practice.

[10] *See, e.g.*, Rules 17a–3 and 17a–4 under the Act and New York Stock Exchange Rule 41D.

[11] This is of particular importance if the computer brokerage system allows large or multiple orders to be executed in a security during the day, thus having a potentially significant effect on the price of a security.

[12] In particular, the Commission is concerned that broker-dealers may use computer brokerage systems or accompanying data bases to direct analysis amounting to recommendations to specific clients or to issue urgent recommendations to clients for immediate action through computer brokerage systems.

[13] *See, e.g.*, Article III, Section 2 of the NASD's Rules of Fair Practice; Chicago Board Options Exchange, Inc. Rule 9.9.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning November 1, 1984. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after November 1, 1984, and will enable

the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until Appendix B of the regulation is again amended.

EFFECTIVE DATE: November 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–6476 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the PBGC published a final regulation on Valuation of Plan Benefits in Non-Multiemployer Plans (46 FR 9492). That regulation, codified at 29 CFR Part 2619 (1983), sets forth the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.* (1976), *as amended.* The regulation contains formulas for valuing different types of benefits. Appendix B to the regulation sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

As published in the 1983 edition of 29 CFR, Appendix B of Part 2619 contains interest rates and factors for valuing benefits in plans that terminated during various periods from September 2, 1974 through June 1, 1983. The rates and factors adopted for valuing benefits in plans that terminated on or after June 1, 1983 remained in effect until September 1, 1983. On August 15, 1983, the PBGC published new rates and factors for plans that terminated on or after September 1, 1983 (48 FR 36817). That rate remained in effect for plan terminations through the end of January, 1984. In January, February, March, April, June, July, and August of 1984 the PBGC published new rates and factors for plans terminating during the months of February through October of 1984 (49 FR 1896, 49 FR 6486, 49 FR 9856, 49 FR 14730, 49 FR 24721, 49 FR 28551, and 49 FR 32573).

At this time, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after November 1, 1984, which set reflects a decrease of ¼ percent in the interest rate.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as PBGC publishes another amendment concerning them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination.

Because of the need to provide immediate guidance for the valuation of benefits of plans that will terminate on or after November 1, 1984, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 50 of Appendix B is revised and Rate Set 51 of Appendix B is added, to read as follows:

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
* * *	*	*	*	*	*	*	*	
50	9–1–84	11–1–84	10.50	1.0975	1.0850	1.0400	7	8
51	11–1–84		10.25	1.0950	1.0825	1.0400	7	8

C.C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–27023 Filed 10–12–84; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–10–FRL–2667–7]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves amendments to the Oregon Department of Environmental Quality (DEQ) rules for municipal incinerators, open field burning, and open burning as revisions to the Oregon State Implementation Plan (SIP). There amended rules were submitted on January 16, 1984, March 14, 1984, and June 5, 1984 by DEQ, after

adequate opportunity for public, private, and industry input. The revisions are strictly procedural, and do not affect the amount of acreage allowed to be burned or the controls embodied in the EPA-approved smoke management plan.

EFFECTIVE DATE: This action will be effective on December 14, 1984 unless notice is received before November 14, 1984 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal thirty-day comment period on this action.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Air Programs Branch (10A–84–5), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, 522 SW. Fifth, Yeon Building, Portland, Oregon 97207

Copy of the State's submittal may be examined at:

The Office of Federal Register, 1101 L Street NW., Room 8401, Washington, D.C.

Public Information Reference Unit, EPA, 401 M Street, SW., Washington, D.C. 20460

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442–8577, (FTS) 399–8577.

SUPPLEMENTARY INFORMATION:

I. Plan Revisions

On January 16, 1984 DEQ submitted amendments to its rules for refuse burning equipment (OAR 340–21–005, 025 and 027), which revise the emission limits applicable to small to medium-size municipal waste incinerators in the coastal areas of Oregon. These amendments relax emission limits for incinerators with capacities between 2.4 and 50 tons per day and tighten emission limits for incinerators with capacities greater than 50 tons per day. These new emission limits are consistent with the current actual emissions of the affected incinerators. On May 23, 1984 DEQ submitted modeling results demonstrating that, under worst-case assumptions, the new allowable emission limits would not result in violations of the National Ambient Air Quality Standard or Prevention of Significant Deterioration increments for total suspended particulates (TSP). EPA is therefore approving the amended rules.

On March 14, 1984 DEQ submitted amendments to its rules for open field burning in the Willamette Valley (OAR 340–26–001 through 045). These amendments completely restructure and revise the existing rules. However, the revisions are strictly procedural, and do not affect the amount of acreage allowed to be burned or the controls embodied in the EPA-approved smoke management plan. EPA is therefore approving the amended rules.

On June 5, 1984 DEQ submitted amendments to its rules for open burning (OAR 340–23–022 through 115). These amendments completely revise the procedures for regulating open burning and add a new restriction on domestic open burning (backyard burning) in and around the Portland metropolitan area. Since these amendments reduce the amount of emissions from open burning and improve the regulation of open burning in general, EPA is approving the amended rules.

II. Summary of Action

EPA views as noncontroversial and routine the approval of state regulations which do not allow increases in actual emissions or are only procedural in nature. EPA today is therefore approving, without prior proposal, the following as revisions to the Oregon SIP:

(1) Amended emission limitations for municipal waste incinerators in the coastal areas of Oregon, specifically: The addition of new definitions OAR 340–21–005 (1) and (4); an amendment to OAR 340–21–025(2)(b); and the addition of new emission limitations in OAR 340–21–027;

(2) Amended rules for open field burning in the Willamette Valley, specifically: The addition of new sections 340–26–001 "Introduction," 340–26–003 "Policy," 340–26–031 "Burning by Public Agencies (Training Fires)," 340–26–035 "Experimental Burning," 340–26–040 "Emergency Burning, Cessation," and 340–26–045 "Approved Alternative Methods of Burning (Propane Flaming); revisions to sections 340–26–005 "Definitions," 340–26–013 "Acreage Limitations, Allocations," 340–26–015 "Daily Burning Authorization Criteria," 340–26–025 "Civil Penalties," and 340–26–030 "Tax Credits for Approved Alternative Methods and Approved Alternative Facilities; "the deletion of the existing section 340–26–010 "General Provisions" and replacing it with a new section 340–26–010 "General Requirements;" the deletion of the existing section 340–26–012 "Registration and Authorization of Acreage to be Open Burned" and replacing it with a new section 340–26–012 "Registration, Permits, Fees, and Records;" and the deletion of sections 340–26–011 "Certified Alternative to Open Field Burning," and 340–26–020 "Winter Burning Season Regulations;" and

(3) Amended Open Burning Rules (OAR 340–23–022 through 115).

The public should be advised that this action will be effective on (60 days after date of publication). However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on those revisions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on those revisions and another will begin a new rulemaking by announcing a proposal of the action on those revisions and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days of the date of publication). This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act.)

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110, 161, and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 110(a) and 301(a) of the Clean Air Act (42 U.S.C. 7410(a) and 7601(a)))

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide.

Dated: September 5, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Federal Register in July 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. In § 52.1970, paragraph (c)(68) is added as set forth below:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(68) Amendments to the Refuse Burning Equipment Limitations rules, specifically OAR 340–21–005 (1) and (4), OAR 340–21–025(2)(b), and OAR 340–21–027, submitted by the State Department of Environmental Quality on January 16, 1984; amendments to the Open Field Burning rules, specifically, the addition of new sections 340–26–001, 340–26–003, 340–26–031, 340–26–035, 340–26–040, and 340–26–045, revisions to sections 340–26–005, 340–26–013, 340–26–015, 340–26–025, and 340–26–030, the deletion of the existing section 340–26–010 and replacing it with a new section 340–26–010, the deletion of the existing section 340–26–012 and replacing it with a new section 340–26–012, and the deletion of sections 340–26–011 and 340–26–020, submitted by the State Department of Environmental Quality on March 14, 1984; and amendments to the Open Burning Rules (OAR 340–23–022 through 115), submitted by the State Department of Environmental Quality on June 5, 1984.

[FR Doc. 84–27111 Filed 10–12–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[EPA Action MO 999; A–7–FRL–2691–8]

Approval and Promulgation of Implementation Plans; State of Missouri; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Clean Air Act requires that all states which received an extension beyond December 31, 1982, to attain either the ozone or carbon monoxide standards submit a revised plan by July 1, 1982, showing that the standards would be attained by December 31, 1987. The State of Missouri has submitted a plan for the St. Louis area. EPA proposed to disapprove portions of this plan and to approve other portions. This document approves those portions which were proposed to be approved. The state has corrected numerous deficiencies, and has committed to correct the demonstration of attainment of the ozone standard. No action is being taken on the portions of the plan which were proposed to be disapproved.

EFFECTIVE DATE: November 14, 1984.

ADDRESSES: Copies of the state's submission, public comments, and EPA's technical evaluation are available during normal business hours at the Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106; Missouri Deprtment of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101, and the East-West Gateway Coordinating Council, 100 South Tucker Boulevard, St. Louis, Missouri 63102. The State submission is also available at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C., and the Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (816) 374–3791.

SUPPLEMENTARY INFORMATION: On April 11, 1983 (48 FR 15493), EPA published a proposal to take action on revisions to the Missouri State Implementation Plan (SIP) submitted by the state on December 23, 1984. The purpose of these revisions was to show how the ozone and carbon monoxide ambient air quality standards are to be attained in the St. Louis nonattainment area. The revisions were required under Part D of the Clean Air Act, which provides that areas which have not attained the air quality standards must take additional pollution control measures to meet the standards. For a more detailed discussion of the December 23, 1982, submission as it relates to the requirements of the Act, the reader is referred to the April 11 proposed rulemaking (PRM).

On August 24, 1983, the state submitted revisions to the December 23 submission. Today's final actions are based on EPA's review of the revised submission. The requirements that must be satisfied are described below as those relating to the ozone plan, those relating to the carbon monoxide plan, and those additional requirements which must be satisfied by all plans.

A. The Ozone Plan

EPA's proposal of the ozone SIP was divided into seven sections:

—Emission Inventory
—Air Quality Data
—Modeling Analysis and the Emission Reduction Target
—Stationary Source Controls
—Inspection and Maintenance Program
—Transportation Control Measures
—Reasonable Further Progress and the Attainment Demonstration.

Of these areas, EPA proposed to approve the emission inventory, air quality data, stationary source controls and transportation measures. As discussed below, these items are being approved.

The other three items were proposed to be disapproved. The state submitted revised material to address these other points, but EPA's review of these changes also found deficiencies. As discussed below, the State has committed to correct the deficiencies. EPA will evaluate the corrections and will propose action on them when the evaluation is complete.

1. Emission Inventory

Section 172(b)(4) of the Clean Air Act requires the SIP to contain a comprehensive, accurate and current inventory of actual emissions.

The PRM proposed to approve the emission inventory for Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x). The NO_x inventory is not changed by the August 24, 1983, submission, but the VOC inventory has been revised slightly. The base year inventory has been adjusted from 315,030 kg/day to 311,855. The baseline 1987 inventory has been changed from 248,870 kg/day to 245,640. These changes are due primarily to reduced estimates of both current and future auto assembly emissions, and do not significantly affect the overall control requirement. No comments were received dealing with the approvability of the inventory. The Missouri SIP is approved with respect to the emission inventory requirement.

2. Air Quality Data

For a 1982 SIP, EPA generally requires the air quality data base to include all data collected through the third quarter of 1981 (46 FR 7189, January 22, 1981). The PRM proposed to approve the air quality data base for use in the modeling analysis. No revisions to the data base have been submitted, and no comments were received on the proposal. EPA approves the air quality data for use in the modeling analysis.

3. Modeling Analysis and Emission Reduction Target

The April 11 PRM noted two errors in developing the base year mobile source inventory. One was in comparing the emissions calculated by two different computational techniques (Mobile–1 and Mobile–2), and the other was a simple mathematical error. The state has reworked the mobile source inventory based only on Mobile–2, eliminating both the Mobile–1 comparison and the mathematical error.

The state also remodeled the emission reduction target, using the city-specific Empirical Kinetic Modeling Approach (EKMA), and determined that the control requirement is 40.3 percent, not 42.2 percent as described in the previous proposal. The state adjusted this modeled control requirement by taking credit for reductions of 10.6 percent between 1979 and 1980 rather than the originally claimed adjustment of 15.8 percent. The PRM noted that the state's claim of a 38,316 kg/day reduction in mobile source emissions between 1979 and 1980 was not supported. The state now claims a 12,870 kg/day reduction and supports this with Mobile–2 calculations for both 1979 and 1980.

EPA's review of the state's development of the emission reduction target found another mathematical error that had the effect of overstating the reductions which occurred between 1979 and 1980. A rigorous computation finds that the appropriate target is an emission reduction of approximately 34.8 percent from the 1980 emission inventory rather than the 29.7 percent contained in the August 24, 1983, submission. A more detailed discussion of this issue is presented in the technical support document.

The state made a good faith effort to demonstrate attainment and has agreed to correct the mathematical error in a reasonable time; therefore, EPA believes that it would be inappropriate to disapprove the emission reduction target. EPA believes the state should be provided an opportunity to address this concern prior to a final rulemaking action. In a letter dated August 27, 1984, the state has committed to correcting the emission reduction target by August 1, 1985. Based on this commitment and on the state's previous good faith effort to model correctly and develop an acceptable emission reduction target, EPA has determined to take no action at this time on the modeling analysis and emission reduction target. EPA will repropose action based on the state's revised submission.

4. Stationary Source Control

Section 172(b)(2) of the Clean Air Act requires states to adopt regulations requiring implementation of Reasonably Available Control Technology (RACT) as expeditiously as practicable. The PRM proposed approval with respect to stationary source controls with the understanding that the full operating permit for the Gusdorf Company be submitted as part of the SIP. The state has submitted operating permits for Gusdorf, containing restrictions which limit emissions to less than 100 tons per year, as discussed in the PRM.

With respect to the schedules for adopting new rules, most of them have been completed and the regulations adopted. These new rules will be proposed separately and are not included in today's approval. One schedule remains outstanding. The state had delayed developing a rule for one particular chemical plant when it appeared that the source would be able to get a permit limiting emissions under the State's alternative emission limit (bubble) rule. That attempt has been abandoned since EPA has not approved the Bubble rule and the state has committed to adopt a RACT rule by October, 1984, rather than the originally scheduled October, 1983. EPA finds that this schedule does not differ significantly from that proposed. It represents expeditious implementation of the RACT requirement for the subject source and the ultimate attainment date for the ozone standard is not affected.

One commenter suggested that EPA should accept as RACT a particular limit for one particular source. The RACT limit for that source is to be submitted by the state in the future and EPA will determine its approvability at that time.

One commenter objected to the proposal to approve schedules for control measures on the basis that the plan should contain "enforceable measure" as required by section 172(c) of the Act. EPA believes the phrase "enforceable measures" is broad enough to embrace enforceable schedules. The reader should refer to the technical support package for a detailed response to this comment.

One comment was made that the RACT measures must include Stage II vapor recovery. Such measures are not considered necessary at this time, but the State will consider Stage II as part of its revised attainment demonstration. The reader should refer to the technical support package for a detailed response to this comment.

Another commenter suggested that the Gusdorf permits are already federally enforceable because they are adopted pursuant to federally approved permit regulations. EPA finds this issue is moot, since the Gusdorf permits have been submitted as part of the SIP and are being approved today.

No comments were received on the proposal to approve the Polyethylene Bag Sealing regulation.

Two commenters requested approval of the alternative emission limit (bubble) rule as part of the SIP. As indicated in the PRM, the bubble rule and associated provisions which were included with several other rules in the August 24, 1983, submission, actually were submitted separately. The bubble rule was formally submitted November 17, 1982, and is under review. Therefore, EPA believes that it can take final action on the 1982 SIP without proposing or taking final action on the bubble rule.

In summary, EPA approves the Missouri SIP as meeting the requirements of section 172(b)(2), with respect to stationary sources.

5. Inspection and Maintenance

The PRM proposed disapproval of the I/M portion of the plan because it did not contain the necessary commitments and elements for an I/M program. In particular, the implementation date did not comply with EPA requirements, the plan did not contain the relevant rules and procedures of the implementing agencies and the plan did not demonstrate the required emission reductions.

The state began its I/M program on January 1, 1984. The State has now submitted a package of regulations, procedures, inspection manuals, equipment specifications and other elements of its I/M program. EPA is reviewing this package and will propose action on its separately. No action is being taken on the I/M portion of the SIP at this time.

6. Transportation Control Measures (TCMs) and Other Provisions

The 1982 SIP must include all reasonably available TCM's as described in the 1982 SIP policy (46 FR 7187, January 22, 1981) and provisions for ensuring that basic transportation needs are met. The PRM proposed approval of the TCMs in the SIP. There have been no changes in this portion of the SIP, and no comments were received. EPA approves the 1982 ozone SIP as meeting the requirement for inclusion of reasonably available transportation measures and additional contingencies. In addition, EPA approves basic transportation needs provisions submitted in the SIP as

ensuring the provisions for transportation system mobility.

7. Reasonable Further Progress and Attainment Demonstration

The PRM proposed disapproval for failure to demonstrate RFP and attainment. The reason was the belief that the emission reduction target was incorrect and that greater emission reductions would be needed. The State has made a good-faith effort to submit an acceptable emission reduction target, but as discussed above, the most recent submission is unapprovable. Since the attainment demonstration is based on the emission reduction target, the demonstration also cannot be approved. Again, EPA believes the state made a valid effort to develop an approvable demonstration, and that it would be inappropriate to disapprove this demonstration. In its letter of August 27, 1984, the state committed to develop and implement the control strategies necessary to attain the revised emission reduction target of approximately 34.8 percent from the 1980 inventory, as discussed above. Because of this commitment, EPA is taking no action on this submission. When the state submits the revised RFP and attainment demonstrations, EPA will evaluate them and propose an appropriate action.

B. Carbon Monoxide (CO)

The state submittal contains a modeling analysis which demonstrates attainment of the CO standard, demonstrates reasonable further progress (RFP), and contains requirements for stationary source controls, an I/M program, and transportation control measures (TCM).

EPA originally proposed to disapprove the I/M program. The state has now begun an I/M program and submitted documentation as part of the SIP. Action will be proposed when EPA has completed its review of the I/M submission. The other portions of the CO plan are approved as discussed below.

1. Hotspot Analysis

The APRAC–2 CO diffusion model using MOBILE–2 emission factors was used to project future CO concentrations. This is the EPA-approved model as specified in the 1982 SIP policy. The model predicted that the CO standards will be attained at 201 receptor sites in the region. The PRM proposed to approve the hotspot analysis. No changes have been made, and no comments received on this proposal. Therefore, this analysis is approved.

2. Reasonable Further Progress (RFP) and Attainment

The SIP demonstrates that the CO standard will be attained through the implementation of the federal motor vehicle control program, and I/M program, and the TCMs, and that annual emission reductions will occur as a result of these programs. The PRM proposed to approve the demonstration of RFP and attainment. No changes have been made and no comments were received on this proposal. Therefore, the RFP and attainment demonstration is approved.

3. Stationary Source Controls

The Missouri SIP indicates that there are three sources which emit greater than 2500 kg/day. EPA agrees that control of emissions from two of these sources is not considered practical.

The SIP indicates that the third source will be installing a control system which will meet the requirement for RACT. The PRM proposed approval of the CO plan, with respect to the RACT requirement, provided the state demonstrates that the RACT limits will be enforceable. The state has now committed to submit the proposed emission limits as enforceable requirements in October 1984. Although the limits are not yet enforceable, the commitment to adopt legally enforceable limits satisfies the RACT requirement. One comment was received supporting the emission limit chosen as representing RACT for the source in question. No adverse comments were received. The CO plan is approved as providing for RACT on all major stationary sources.

C. Additional Requirements

1. Conformity of Federal Actions

Section 176(c) of the Clean Air Act requires that all Federal activities conform to the SIP.

In addition, the SIP must identify, to the extent possible, the direct and indirect emissions associated with major Federal actions. EPA has determined that the SIP meets the requirement that it identify emissions associated with major federal actions. The PRM proposed approval with respect to this requirement. No changes have been made in this portion of the plan and no comments were received. Therefore, the SIP is approved with respect to this requirement.

2. Public Participation and Consultation With State and Local Officials

The SIP provides evidence of an extensive public participation program which meets the requirements of section 121 of the Clean Air Act. The PRM proposed to approve the SIP with respect to these requirements. No comments were received on this proposal. The plan is approved with respect to those requirements.

3. Effect Assessment

The Missouri SIP provides a limited analysis of the air quality, health, welfare, economic, energy and social effects of the plan as required by section 172(b)(9) of the Clean Air Act. The PRM proposed to approve the effect assessment, but solicited comments in view of the limited analysis the state provided and the lack of guidance in this area by EPA. One commenter criticized EPA for not providing guidance, but no comments were received on the proposal itself. This provision is approved as proposed.

D. General

In addition to the proposal published on April 11, EPA also published a proposal based on a draft of the Missouri SIP. That proposal was published February 3, 1983 (48 FR 5085), along with similar proposals for other states. In response to these proposals, the Regional Office received 15 letters of comment from 13 commenters who made approximately 40 comments. Comments addressing approvability issues have been discussed in this document. Other comments mainly objected to sanctions for various reasons. The latter comments are addressed in the technical support memorandum which accompanies this rulemaking.

Some of the commenters also made technical comments which are addressed in the support document. Two comments submitted to another EPA office were deemed to apply to Missouri. The latter comments are addressed briefly above and in greater length in the support document.

E. Summary

EPA is approving parts of Missouri's ozone and CO SIP. The state has committed to repair the remaining portions of the SIP by August 1, 1985. Because the SIP as a whole remains approved, there will be no construction moratorium as there would be for a disapproved SIP. Similarly, so long as the state continues to make reasonable efforts to submit the needed corrections by August 1, 1985, EPA does not intend to impose highway or air grant funding restrictions.

The Administrator's decision to approve or disapprove a submission is based upon the comments received and

on whether the SIP revisions meet the requirements of the Clean Air Act, 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans) and the 1982 SIP policy (46 FR 7184, January 22, 1981). I hereby find the portions of the Missouri SIP described above approvable.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at 324 East 11th Street, Kansas City, Missouri 64106.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

This notice is issued under the authority of sections 110 and 301 of the Clean Act Act, as amended, 42 U.S.C. 7410 and 7601.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: October 4, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(40) as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(40) The 1982 carbon monoxide and ozone state implementation plan revisions were submitted by the Department of Natural Resources on December 23, 1982. A revised version of the 1982 carbon monoxide and ozone plan was submitted by the Department of Natural Resources on August 24, 1983. This version contained updated inventories, attainment demonstrations and schedules to adopt rules. The submission included new rule 10 CSR 10–5.360, Control of Emissions from Polyethylene Bag Sealing Operations. (No action was taken with respect to provisions dealing with control strategy demonstration, reasonable further progress and inspection and maintenance of motor vehicles.)

* * * * *

[FR Doc. 84–27144 Filed 10–12–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC–279–CN]

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System; and FY 1985 Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule, published on August 31, 1984, that implemented the second year of the three-year transition period of the prospective payment system for inpatient hospital services.

FOR FURTHER INFORMATION CONTACT: Mike Fiore, (301) 597–0722.

SUPPLEMENTARY INFORMATION: In FR Doc. 84–23345 beginning on page 34728 in the issue of Friday, August 31, 1984, make the following corrections:

1. On page 34733, in column three, in the 16th line of the first paragraph—The word "Medicaid" should be replaced with the word "Medicare".

2. On page 34736, in column two, in the middle of the column—The section designated as "F", Hospitals in Areas Redesignated as Rural, should be designated as section "E".

3. On page 34738, in column three, in the sixth line of the fifth paragraph—Add the word "to" between the words "assigned" and "a".

4. On page 34742, in column one, replace the eighth line and the three paragraphs preceded by a bullet point immediately following the eighth line with the following language: "units) is one of the following—

- At least 6,000 for the hospital's cost reporting period that ended in 1981;
- At least 6,000 for the hospital's most recently completed cost reporting period; or
- Equal to or greater than the median number of discharges of urban hospitals in 1981 for the region in which the hospital is located for either the hospital's cost reporting period ending in 1981 or its most recently completed cost reporting period."

5. On page 34744, in column one, in the tenth line from the bottom of the page—The cross reference to § 405.476(b)(1)(iii)(B) should be § 405.476(g)(1)(iii)(B).

6. Also on page 34744, in column two, in the fourth line of the second full paragraph from the top of the page—The cross reference to §§ 405.476(b)(1)(iii) (A) and (B) should be §§ 405.476(g)(1)(iii) (A) and (B).

7. On page 34745, in column one, in the fifth line from the top of the page—The cross reference to section VI.C. should be section VII.C.

8. On page 34748, in column three, on the last word of the page—Change the word "inappropriate" to "appropriate".

9. On page 34750, in column one, in the eighth line of the first paragraph from the top of the page—The word "of" should be "or".

10. Also on page 34750, in column one, in section I., the acronym "ESRO" on lines four, seven, twelve and fifteen should be "ESRD". The words "patient," "patients", and "patient" again, on lines eight, tweive and fifteen of this paragraph respectively, should be "beneficiary", "beneficiaries" and "beneficiary" respectively.

11. On page 34754, in column two, in the tenth line of the first full paragraph in the middle of the page—The word "care" should be "case".

12. On page 34756, in column one, in the seventh line in the last paragraph—Add the word "basket" after the word "market".

13. On page 34757, in column one, in the fifth and ninth lines of the third full paragraph from the top of the page—In the fifth line, the cross reference in parenthesis should read "§§ 405.470 and 405.475". In the ninth line the words "discharges occurring" should read "cost reporting periods beginning".

14. Also on page 34757, in column one, in the second paragraph of section B.—The cross reference in the sixth line should read § 405.476 and that in the seventh line should read § 405.473.

15. On page 34759, in column three, in the eighth line of the fifth paragraph from the top of the page—In § 405.473(b)(6)(ii)(B), the word "any" should be replaced with the words "the hospital's".

16. On page 34760, in column one, in the sixth paragraph from the top of the

page—Paragraph (B) of § 405.473(c)(2)(ii) is replaced by the following paragraph:

"(B) A hospital that met the conditions of paragraph (b)(6)(ii)(B) of this section, and therefore did not receive a lower Federal rate that would have applied for cost reporting periods beginning before October 1, 1984, will receive the lower Federal rate applicable to all hospitals in the MSA or NECMA in which it is located effective with the hospital's cost reporting period that begins on or after October 1, 1984."

17. On page 34761, in column two, in item nine in the middle of the page—The amendatory language should read as follows:

"9. Section 405.475 is amended by revising and redesignating paragraph (a) as (a)(1), adding a new paragraph (a)(2), and revising paragraphs (d) (1) and (6) to read as follows:"

18. Also on page 34761, in column two, in the third line of the third paragraph from the bottom of the page—In § 405.475(a)(1)(ii), the cross reference to paragraph (a)(1) should be to paragraph (a)(1)(i).

19. Also on page 34761, in column three, in § 405.475(d), after paragraph (d)(1) and before the five stars insert the following:

"(6) The additional payment amount will be derived by first taking 60 percent of the difference between the hospital's adjusted cost for the discharge (as determined under paragraph (d)(3) of this section) and the threshold criteria established under paragraph (a)(1)(ii) of this section. The resulting amount will then be multiplied by the applicable Federal portion of the blend as indicated in paragraph (c)(3) of this section."

20. On page 34762, in column one, in the first line of the second paragraph from the bottom of the page—In §405.476(g)(1)(iii)(B)(2), the word "cost" should be "most".

21. Also, on page 34762, in column three, in lines one and two of the third full paragraph—In § 405.476(j)(1), the words "for discharges occurring" should be corrected to read "with cost reporting periods beginning".

22. On page 34763, in column one, in § 405.477(c)(3), in the last line of paragraph (c)(3) in the middle of the page—After the word "hospital" add the phrase "or obtained under arrangements".

23. Also on page 34763, in column one, in item 11—Section 405.477(d)(2)(v)(B)(*1*) should read: "A monthly listing of all interns and residents providing services during the month;".

24. Also on page 34763, in column two, in the second, fourth and fifth full paragraphs from the top of the page—In § 405.477(d)(2)(vi), the first sentence should read "Except for interns and residents providing services in more than one hospital as provided in paragraph (d)(2)(v)(C) of this section,". In § 405.477(d)(2)(vi)(B), the words "One-half" in the first line of paragraph (B) should read "One-half". In § 405.477(d)(2)(vi), paragraph (C) should be deleted.

25. Also on page 34763, in column two, in line five of the Authority section for Subpart E—The U.S.C. citation "1395K" should read "1395k".

26. On page 34765, in column one, in the eighth line of the second full paragraph—The word "countries" should read "counties".

27. On page 34767, in column one, under item two, in the second line of the second paragraph—The word "role" should be "rate".

28. Also on page 34767, in column one, under item two, in the ninth line of the fourth paragraph—Add the word "Federal" between the words "next" and "fiscal".

29. On page 34768, in column three, in the last line of the second paragraph—The year "1985" should read "1984".

30. On page 34772, in column one, in the 11th line of the second full paragraph—The word "charges" should read "changes".

31. Also on page 34772, in column three, in lines 17 and 18 of the first full paragraph—The sentence which reads "Therefore, we believe periods begin late in FY 1985", should be deleted.

32. On page 34776, in column one, in the first line of the second and fifth paragraphs of section 1. Hospital-Specific Portion—In the second paragraph, delete the word "Portion" and replace it with the following phrase, "Rate (that is, the prior year hospital-specific portion before it was multiplied by 75 percent and the DRG weight)". In the fifth paragraph, delete the word "Portion" and substitute the word "Rate".

33. On page 34791, in column three, in the 13th line from the bottom of the page—The cross reference to section II. D.1.b. should read "section II.E.1.b".

34. On page 34793, in column one, in the 12th line from the top of the page—The cross reference to 43 CFR should read "42 CFR".

35. On page 34794, in column three, in the third line from the top of the page—The reference to section 10B should read "section 108".

36. On page 34796, in column two, under paragraph J, "Summary of Changes from Proposed Methodology", in the fifth line of the third paragraph preceded by a bullet point, the reference to "Pub. L. 98–364", should read "Pub. L. 98–369".

37. Also on page 34796, in column three, in the tenth line of the fourth paragraph from the top of the page—The word "regulated" should read "resulted".

(Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 4, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: October 9, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-27124 Filed 10-12-84; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 84-438]

Amendment of the Commission's Rules To Require the Inclusion of a Table of Contents and Summary of Filing in Filings Longer Than Ten Pages

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is amending its rules of practice and procedure to require that filings that exceed ten pages in length be accompanied by a table of contents (with page references) and a concise summary. Also, limitations are adopted governing the length of the summary. The number and size of filings with the FCC have increased in recent years with the advent of increased entry and competition, and increased public awareness of the importance of telecommunications issues, making it increasingly difficult for the public and the Commission to access, analyze and retrieve lengthy filings. The new requirements are intended to ameliorate these problems.

EFFECTIVE DATE: October 26, 1984.

FOR FURTHER INFORMATION CONTACT: Michael S. Slomin, Legal Advisor to the Chief, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554 (202–632–6910).

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 1

Administrative Practice and Procedure.

Memorandum Opinion and Order

In the matter of revision of the FCC's Rules to Require the Inclusion of a Table of Contents and Summary of Filing in Filings Longer than Ten Pages.

Adopted: September 14, 1984.
Released: September 19, 1984.

By the Commission.

1. The nature, range and scope of issues being addressed by this Commission has become increasingly complex in recent years. At the same time, with the advent of increased entry and competition and increased public awareness of the importance of telecommunications issues, the number of participants in our proceedings has increased. Because of these factors, the number and size of filings made before this Commission has similarly increased. It is important that the Commission (and its staff) and the interested public have the ability to analyze and retrieve such filings expeditiously and effectively. But, as a practical matter in many proceedings it has become difficult, if not near-impossible, to do so.

2. One tool that we have employed in the past in an attempt to manage this problem has been to adopt length limitations on certain filings and responses thereto, *e.g.*, petitions for reconsideration, applications for review, briefs and exceptions to initial decisions, and appeals of interlocutory rulings.[1] While we may consider in the future whether this approach might be extended to encompass other filings which may be unnecessarily lengthy, we do not propose to take such a step at this time.

3. Rather, we shall utilize an alternative tool used by several federal appellate courts. Specifically, we shall require that relatively lengthy filings be preceeded by a *concise* summary of the arguments or positions expressed in the body of the filing, and by a table of contents to facilitate access to sections addressing specific issues. It could be argued that this approach could prove difficult to implement in the case of comprehensive filings addressing multiple issues, as often is the case of comments and responses filed in broad inquiry and rulemaking proceedings. Nevertheless, many appellate court actions (including those reviewing decisions of this Commission in such proceedings) are similarly complex, and the requirement that a summary of argument precede briefs even in complex cases has not proven insurmountable. Indeed, the very requirement that a concise summary be prepared may well have the salutory effect of promoting the use of concise (and tersely phrased) argument in the body of the filings. We expect that a crisp summary and table of contents will provide a plain-worded "snapshot" of the commentor's position that can be utilized in our written orders to summarize the positions of the parties.

4. As noted, we are drawing upon the experience of the federal appellate courts, four of which currently require that a summary of argument precede some or all appellate briefs.[2] These courts have used the following formulation in an obvious effort to ensure that such summaries add to the briefs, and not merely duplicate them:

> "a summary of argument, suitably paragraphed, which should be a succinct, but accurate and clear, condensation of the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged."[3]

Moreover, three of these courts specifically limit the length of the summary itself.[4] Finally, Rules 28(a) (1) and (b) of the Federal Rules of Appellate Procedure, governing all federal appellate courts, specifies the inclusion of a table of contents with briefs.[5] We conclude that similar requirements, formulations, and length limitations in the procedural rules of this Commission would enhance the ability of this agency and the public to access and to analyze filings, and that it would be in the public interest for requirements of this nature to be adopted and to be made effective expeditiously.

5. An additional matter to be decided is whether summaries and tables of contents should be required for every filing, regardless of length, or only those which are relatively lengthy. We conclude that such materials sever little function if a filing is short. Since a number of page length limitations in our rules specify ten page limitations,[6] this appears to be a reasonable limit above which these new requirements should apply. Thus, the final rule changes which are in the appendix to this order specify that for all filings wherein the main body extends beyond (but not including) ten pages, both a table of contents and summary of the filing will be required.[7] Finally, inasmuch as these rule amendments are "rules of agency organization, procedure, or practice" within the language of 5 U.S.C § 553(b), notice and comment procedures are neither required nor necessary.

6. Accordingly, it is hereby ordered, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i)–(j) and 5 U.S.C. 553, That Part 1 of Title 47, Chapter I, of the Code of Federal Regulations, is hereby amended in accordance with the appendix to this order, effective October 26, 1984.

7. It is further ordered, that the Secretary shall cause a copy of this order and appendix to be published in the **Federal Register.**

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 1—[AMENDED]

Appendix

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as follows:

1. Section 1.48(a) is revised to read as follows:

§ 1.48 Length of pleadings.

(a) Affidavits, statements, *tables of contents and summaries of filings,* and other materials which are submitted with and factually support a pleading are not counted in determining the length of the pleading. If other materials are submitted with a pleading, they will be counted in determining its length; and if the length of the pleadings, as so computed, is greater than permitted by the provisions of this chapter, the pleading will be returned without consideration.

* * * * *

2. Section 1.49 is redesignated § 1.49(a), and new paragraphs (b) and (c) are added to read as follows:

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[1] *See, e.g.*, §§ 1.106, 1.115, 1.277, 1.301 and 1.429 of the FCC's rules.

[2] Rule 8(b), District of Columbia Circuit, requires a summary of argument in briefs the argument portion of which exceeds twenty pages; Rule 28.2.2, Fifth Circuit, and Rule 22(f)(8), Eleventh Circuit, require such a summary regardless of the length of the brief; and Rule 8(g)(6), Eighth Circuit, permits a summary of argument to be filed regardless of the length of the brief, but requires such a summary if the brief exceeds twenty-five pages in length.

[3] Rule 8(b), District of Columbia Circuit. Comparable language is contained in the rules of the Fifth, Eighth and Eleventh Circuits.

[4] The rules of the Fifth, Eighth and Eleventh Circuits specify that a summary of argument "should seldom exceed two and never five pages."

[5] *See also,* Rules 21.A and B, Third Circuit and Rule 9(a), Seventh Circuit (specifying the inclusion of tables of contents with briefs).

[6] *Supra.*, n. 1.

[7] Shorter filings *may,* but need not, include either a table of contents or a summary, or both.

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(b) All pleadings and documents filed in any proceeding, the length of which filings as computed under this chapter exceeds ten pages, shall include a table of contents with page references.

(c) All pleadings and documents filed in any proceeding, the length of which filings as computed under this chapter exceeds ten pages, shall include a summary of the filing, suitably paragraphed, which should be a succinct, but accurate and clear, condensation of the substance of the filing. It should not be a mere repetition of the headings under which the filing is arranged. For pleadings and documents exceeding ten but not twenty-five pages in length, the summary should seldom exceed one and never two pages; for pleadings and documents exceeding twenty-five pages in length, the summary should seldom exceed two and never five pages.

[FR Doc. 84-27162 Filed 10-12-84; 8:45 am]
BILLING CODE 6717-01-M

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47 CFR Part 13

Commercial Radio Operators; Editorial Amendment of Part 13 of the Commission's Rules To Remove Unnecessary or Redundant Sections

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: This document involves the elimination of commercial radio operator licensing provisions that are unnecessary or are duplicative an redundant of existing Communications Act sections.

DATE: Effective October 1, 1984.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leonard Langley, Field Operations Bureau, Public Service Division, (202) 632-7240.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 13

Commercial Radio Operators' licenses, radio.

Order

In the matter of editorial amendment of part 13 of the Commission's rules to remove unnecessary or redundant sections.

Adopted: October 1, 1984.
Released: October 2, 1984.

1. Consistent with a major Commission goal of eliminating unnecessary rules and regulations, we are amending Part 13 of the Commission's rules to delete §§ 13.13, 13.64, 13.65, 13.66, 13.67, 13.68, and 13.69. Section 13.13 specifies that an applicant for a restricted radiotelephone operator permit be at least 14 years of age at the time the permit is issued. That requirement represented an arbitrary age determination established by the Commission to deter the processing of frivilous applications. We no longer believe that continuation of the age requirement is necessary. Sections 13.64, 13,65, 13.66, 13.67, 13.68, and 13.69 concerning prohibited behavior by commercial radio operators are Rule sections that are merely duplicative of Communications Act section 303(m)(1)(B) through (E), 47 U.S.C. 303(m)(1)(B) through (E), and are therefore unnecessarily redundant. Sanction authority for any violations of section 303(m)(1)(B) through (E) exist pursuant to sections 503(b)(1)(B), 303(m)(1), and 501 of the Act.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendments are editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, it is ordered, That §§ 13.13, 13.64, 13.65, 13.66, 13.67, 13.68 and 13.69 of the rules are amended in accordance with the attached appendix, effective October 1, 1984.

4. Regarding questions on matters covered in this document contact Leonard Langley, (202) 632-7240.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel.

Managing Director.

PART 13—[AMENDED]

Appendix

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

A. Section 13.13 is removed.
B. Section 13.64 is removed.
C. Section 13.65 is removed.
D. Section 13.66 is removed.
E. Section 13.67 is removed.
F. Section 13.68 is removed.
G. Section 13.69 is removed.

[FR Doc. 84-27158 Filed 10-12-84; 8:45 am]
BILLING CODE 6713-01-M

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47 CFR Parts 81 and 83

[PR Docket No. 84-140; RM-4534; RM-4535; RM-4536; FCC 84-475]

Radioprinter Communications by Vessels of Less Than 1,600 Gross Tons

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules for the introduction and use in the Maritime Mobile Service of radioprinter communications between limited coast stations and associated vessels of less than 1,600 gross tons. This action responds to three separate petitions for rulemaking which expressed a need for radioprinter communications in conjunction with the operation of relatively small vessels. The rules permit a form of modern communications for this class of ships.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast station, Communications equipment.

47 CFR Part 83

Communications equipment, Ship stations.

Report and Order

In the matter of radioprinter communication by vessels of less than 1,600 gross tons; PR DOCKET NO. 84-140, RM 4534, RM 4535, RM 4536.

Adopted: October 4, 1984.
Released: October 10, 1984.

By the Commission.

Introduction

1. The Notice of Proposed Rule Making in this proceeding, FCC 84-47 released February 10, 1984 (49 FR 6116, February 17, 1984) proposed to change the rules to permit limited coast stations and associated ships of less than 1,600 gross tons to use non-exclusive maritime frequencies for a simple radioprinter (RTTY) for business and operational communication.[1]

[1] Limited coast stations serve the operational and business needs of ships and are not open to public correspondence. Such stations are normally licensed to owners/operators of radio equipped ships.

2. The rulemaking was in response to petitions filed by the United New York-New Jersey Sandy Hook Pilots Benevolent Association, Northwest Instruments and A.P. St. Philip, Inc., Mobile Marine Radio, Inc. (MMR) filed comments concerning each of the petitions for rulemaking. MMR argued that a new proceeding was unnecessary since PR Docket No. 82-828,[2] addressed the matter and availability of narrow-band direct-printing (NB-DP) frequencies. However, in the Report and Order in PR Docket No. 82-828, the Commission declined to expand the eligibility of limited coast stations to either the paired or non-paired frequencies allocated for NB-DP in Appendix 32 or Appendix 33, respectively, to the international Radio Regulations (RR). The Commission stated that it was not clear that all of the existing or future demands of public coast stations could be satisfied, and that the shared frequency bands made available in the Second Report and Order in Docket 80-739 should be considered for limited coast stations.[3]

Proposal

A simpler NB-DP system was proposed, one that did not conform to the international standards for the NB-DP system for public correspondence. The proposed system would provide:

a. More efficient use of the radio spectrum by using a communication mode capable of handling a higher volume of traffic;

b. Relief from congestion now experienced on the frequencies shared by limited coast stations for voice communications;

c. Some degree of privacy when compared with voice communication; and

d. A relatively low cost system which would enable record communications between limited coast stations and associated ship stations.

Since the simpler system did not meet the international standard for the NB-DP system, frequencies in the new shared bands were proposed for use by such a simpler system to avoid conflicts with the international NB-DP public correspondence system.

[2] See Report and Order, PR Docket No. 82-828, released November 15, 1983, 48 FR 53118.

[3] General Docket No. 80-739, Released December 8, 1983, FCC 83-511 (49 FR 2357, January 19, 1984) made available the bands 2107-2170 kHz, 2194-2490 kHz, 3155-3400 kHz, 4438-4650 kHz, 4750-4850 kHz, 5060-5450 kHz, 7300-8100 kHz (Secondary) for shared use by the maritime mobile service with other services.

Comments

4. Comments were received from Intech, Incorporated (Intech), Northwest Instrument (NWI), Stephen Energy Associates, Inc. (SEA), The Northern Pacific Marine Radio Council, Inc. (NPMRC), Harris Corporation—RF Communications Division (Harris), Radio KLC, Inc. (KLC), Racal-Decca Survey, Inc. (Racal), Rockwell International Corporation (Rockwell) and Marine Fabricators (MF). All of the commenters supported the proposed use of NB-DP by small ships. KLC conditioned its support on the proviso that public coast stations be granted permission to provide a similar service.

5. SEA, Racal, Rockwell and MF all stated a need for frequency bands above 8 MHz to provide service to small ships operating on the high seas. Frequency bands up to 25 MHz are necessary to provide NB-DP service to fishing ships and to permit the transmission of radiolocation data back to the limited coast station.

6. KLC stated that the provision of NB-DP for small vessels is a step forward in providing good communications meeting the business and operational requirements of the vessel. KLC suggested that public coast stations should be permitted to participate in this service to the potential benefit of users.

7. Intech, NWI, SEA, Harris and Rockwell all proposed that permission be optionally granted to provide for error correction. Rockwell stated that the large ocean-going vessels now have high quality NB-DP service. All of the commenters addressing the subject recommended using the technical specifications for error-correction contained in CCIR Recommendation 476-3. The ship may elect to install equipment embodying this capability which would provide reliable communication with the limited coast station and optionally permit NB-DP communication with public coast stations. Harris stated that the Future Global Maritime Distress and Safety System (FGMDSS) will require NB-DP equipment complying with the international standard. When the FGMDSS becomes operational, all vessels participating in the FGMDSS would use equipment with the international standard. Harris also suggested that, while current technology can support a one frequency simplex system, privacy of communications would be enhanced by the use of a two frequency simplex system. The issues raised by the commenters are discussed in the paragraphs below.

Frequencies Above 8 MHz

8. Several commenters stated the need for frequencies above 8 MHz to provide service to vessels operating on the high seas. This proposal goes beyond the scope of the proceeding. Moreover, no frequency bands above 8 MHz will be available until after July 1, 1989.[4]

Public Coast Station Use of the Simpler NB-DP System

9. KLC suggested that public coast stations be permitted to use the simple NB-DP system for communications with these small vessels. The proposed system was based on a one frequency simplex operation between the company's coast station and its own vessels. We are not restricting small vessels from equipping with NB-DP equipment for public correspondence, but this rulemaking is specifically addressed to limited coast station communications with associated vessels.

Optional Technical Standards

10. Five of the commenters suggested that limited coast stations be permitted to provide error-correction on the NB-DP system. This optional use of error-correction would provide efficient and secure record communications. It also would permit the vessel to communicate with public coast stations and enter the public switched telephone network. We concur with the commenters' view that limited coast station licensees should be afforded the option of using the equipment which provides the most efficient communications to satisfy their particular operational needs.

11. There does not appear to be a need, however, to adopt technical specifications for error-correction equipment. Limited coast operations are conducted between a licensee's coast station and its own vessels. Therefore, the licensee can determine the system and operational procedure necessary to support its operations. There is no requirement for compatibility between limited coast stations or vessels owned by different licensees. Therefore, we are permitting the use of equipment providing error-correction but are not establishing technical specifications for such equipment.

Conclusion

12. These rule amendments are designed to make NB-DP frequencies available to limited coast stations and their associated vessels for radioprinter. These stations are permitted to use a simpler and less expensive system on

[4] See International Radio Regulations No. 532.

frequencies in the new shared bands or to install a system which provides error-correction or compatibility with the international NB-DP system if desired. These rules are permissive in nature and do not impose additional requirements or burdens on any individual or entity. Therefore, pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), we certify that these rules will not have a significant impact on a substantial number of small entities.

13. Accordingly, it is Ordered, That under authority contained in sections 4(i) and 303 (b), (c), (e), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (b), (c), (e), and (r), the Commission's rules are amended as set forth in the attached appendix, effective November 19, 1984.

14. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

15. It is Further Ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-FIXED SERVICE

Three new sections, § 81.361, § 81.362 and § 81.363 are added, to read as follows:

§ 81.361 Frequencies available for radioprinter.

(a) Frequencies may be assigned to limited coast stations for radioprinter use from the frequency bands listed below:

kHz	
2107–2170	4750–4850
2194–2495	5060–5450
2505–2850	5730–5950
3155–3400	7300–8100
4438–4650	

(b) Frequencies in these bands are shared with other radio services including the Maritime Mobile Service. Each assigned frequency is available on a shared use basis only, not for the exclusive use of any one station or licensee.

(c) Frequencies requested and the names of ships to be served must be included on the application. Any addition or deletion of ships must be notified to the Commission by letter.

§ 81.362 Nature of service and supplemental radioprinter eligibility.

(a) Limited coast stations which use radioprinter may transmit to associated ship stations aboard vessels of less than 1,600 gross tons.

(b) A radioprinter authorization for limited coast station may be issued to the owner or operater of a vessels of less than 1,600 gross tons, a community of vessels, or an association whose members operate vessels of less than 1,600 gross tons.

(c) Limited coast station licensees must provide copies of their license to all vessels with which they are authorized to conduct radioprinter operations.

§ 81.363 Radioprinter technical requirements.

The technical provisions of Subpart E of this part shall apply to radioprinter operations modified by following reduced requirements:

(a) Any alphanumeric code may be used which is contained within a bandwidth of 300 Hz.

(b) The mode of operation must be single frequency simplex.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.339 [Redesignated as § 83.333]

1. The section currently designated § 83.339 is renumbered § 83.333.

§ 83.340 [Redesignated as § 83.334]

2. The section currently designated § 83.340 is renumbered § 83.334.

§ 83.341 [Redesignated as § 83.335]

3. The section currently designated § 83.341 is renumbered § 83.335.

4. Three new sections, § 83.337, § 83.339, and § 83.341 are added, to read as follows:

§ 83.337 Frequencies available for radioprinter.

(a) Ship stations may conduct radioprinter operations with limited coast stations on frequencies assigned to their associated limited coast station.

(b) Frequencies may be assigned for radioprinter use from the frequency bands listed below:

kHz	
2107–2170	4750–4850
2194–2495	5060–5450
2505–2850	5730–5950
3155–3400	7300–8100
4438–4650	

(c) Frequencies in these bands are shared with other radio services including the Maritime Mobile Service. Each assigned frequency is available on a shared use basis only, not for the exclusive use of any one station or licensee.

§ 83.339 Nature of service and supplemental radioprinter eligibility.

(a) A ship station is eligible to conduct radioprinter operations if the vessel is associated with a limited coast station authorized to conduct radioprinter operations.

(b) Ship radioprinter communications may be conducted only with the limited coast station with which the ship is associated.

(c) Ships authorized to communicate by radioprinter with a given limited coast station may also conduct intership radioprinter operations.

(d) Radioprinter communications may only be authorized aboard ships of less than 1,600 gross tons.

(e) Only those communications which concern the business and operation of the vessel are authorized.

§ 83.341 Technical radioprinter requirements.

The technical provisions of Subpart E of this part shall apply to equipment used aboard ship to provide radioprinter communications modified by the following reduced requirements.

(a) Any alphanumeric code may be used which is contained with a bandwidth of 300 Hz.

(b) The mode of operation must be single frequency simplex.

[FR Doc. 84-27163 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

[GEN Docket No. 82-617; FCC 84-474]

Amendment of Part 83 of the Rules to Provide for Emergency Position-Indicating Radiobeacons (EPIRB's) for Survival Craft of Vessels Operating in the Great Lakes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action provides for the use of emergency position-indicating radiobeacons (EPIRB's) by survival craft on vessels in the Great Lakes. The Commission initiated this proceeding at the request of the Coast Guard to enhance the safety of vessels operating in the Great Lakes.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Great Lakes, Marine safety, Emergency position-indicating radiobeacon, Ship stations.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 83 of the rules to provide for Class D and Class E Emergency Position-Indicating Radiobeacons (EPIRB's) for survival craft of vessels operating in the Great Lakes (Gen. Docket No. 82–617; FCC 84–474).

Adopted: October 4, 1984.
Released: October 10, 1984.

By the Commission.

Summary

1. In this Report and Order we have determined not to adopt the rules we had proposed for new classes of EPIRB's on the Great Lakes. We are, however, permitting the use of the existing Class C EPIRB in the Great Lakes and elsewhere as required or recommended by the Coast Guard. We are also clarifying the rules which pertain to the existing classes of EPIRB's (Classes A, B and C).

Background

2. EPIRB's are radio transmitters which are carried aboard ships. When deployed, they transmit signals to alert search and rescue (SAR) teams and to enable them to locate the position of a vessel in distress. The EPIRB carrier frequency is modulated by a well defined, distinctive tone which is easily recognizable aurally, and compatible with radio location equipment used by SAR personnel. Coast Guard aircraft and vessels, as well as some land based stations used in SAR operations, are equipped with radio direction finding equipment capable of receiving EPIRB signals. The position of a transmitting EPIRB can generally be located with minimum delay and aid can be provided to the vessel in distress.

3. On November 29, 1966, in Lake Huron, the Great Lakes ore carrier DANIEL J. MORRELL broke in two during a storm and sank. Only one person survived. No distress signal was received from the vessel. From the information given by the lone survivor and persons aboard other vessels in the area at the time, it appears that the radio system aboard the DANIEL J. MORRELL was in satisfactory condition. However, it was rendered useless due to lack of power when the vessel broke in two since the source of power was in the engine room in the aft portion of the vessel and the radio installation was in the wheelhouse in the forward portion of the vessel. The search for survivors of the DANIEL J. MORRELL did not begin until the Coast Guard was notified the vessel was overdue, 10 hours after sinking. The Marine Board [1] investigating the disaster recommended that a data marker buoy which would either be attached to a life raft or float free from a sinking vessel should be required equipment. This buoy would transmit a distress signal on an emergency frequency (2182 kHz recommended). As a result of this investigation, the Commission, on its own initiative, required an auxiliary source of energy for the radiotelephone installation or an auxiliary radiotelephone installation in the wheelhouse.[2] No action was taken on the data marker buoy since the International Maritime Organization (IMO) was considering characteristics and frequencies for EPIRB's applicable to vessels operated on international voyages. In the interim the Coast Guard encouraged voluntary equipping of Great Lakes vessels with such a device.

4. The EDMUND FITZGERALD was a Great Lakes ore carrier which sank in Lake Superior on November 10, 1975. The ship sank in a storm with winds gusting to 50 knots and waves of 15 feet. The EDMUND FITZGERALD had been in radio contact with another vessel 10 miles away on VHF–FM shortly before sinking. However, it was not until four hours had passed without communications from the vessel that it was concluded that the EDMUND FITZGERALD was missing and search efforts began. In this case, both the Coast Guard Marine Board and the National Transportation Safety Board[3] investigating the disaster recommended that an EPIRB be required on vessels operating during the winter.

5. In both disasters, life rafts floated free of the sinking vessels. If these survival craft had been equipped with EPIRB's, other vessels or coast stations could have been alerted. Accordingly, based on the recommendation of the investigating boards, the Coast Guard determined to create two new kinds of EPIRB's: a "Class D" EPIRB, which would be manually activated and designed for use on survival craft that must be placed or lowered into the water by the crew; and a "Class E" EPIRB which would be automatically activated on a survival craft which floats free from a sinking ship.

6. In the Notice of Proposed Rule Making in this proceeding [4] the Commission proposed rules to provide for these Class D and Class E EPIRB's as requested by the Coast Guard. The U.S. Coast Guard concurrently issued its own Notice of Proposed Rulemaking proposing to make the carriage of the new Class D and E EPIRB's mandatory for certain vessels operating on the Great Lakes.[5] Additionally, the existing rules relating to Classes A, B, and C EPIRB's [6] were a proposed to be revised to separate technical requirements necessary for type acceptance by the Commission from operational requirements mandated by the Coast Guard. By separately identifying the technical requirements necessary for type acceptance it was felt the complexity of type acceptance applications and the time necessary to review them could be reduced. The operational requirements for these devices would be evaluated by the Coast Guard.

Comments and Discussion

7. Comments in this proceeding were filed by the National Transportation Safety Board (NTSB) and the Lake Carriers' Association (LCA). No reply comments were received.

8. The NTSB supported the proposal for survival craft EPIRB's on the Great Lakes. The NTSB noted that it had previously recommended an EPIRB be carried on survival craft after the sinking of the SS EDMUND FITZGERALD. LCA opposed the new rules. LCA member companies operate 119 vessels in the Great Lakes and the majority of the vessels affected by this proceeding belong to members of LCA. LCA states its members' vessels are navigated on relatively short voyages and are usually within sight of land. The already required VHF radiotelephone installation provides continuous communications with the land stations according to LCA. LCA argued the EPIRB would be a secondary or tertiary back-up emergency communications system. LCA states that the Class C EPIRB permitted on recreational boats has helped alert the Coast Guard to distress situations and its members would voluntarily install Class C EPIRB's in the wheelhouse if permitted.

[1] Department of Transportation, Marine Board of Investigation; SS DANIEL J. MORRELL, March 4, 1968.

[2] Report and Order, Docket No. 18854, FCC–71–292. Released March 30, 1971.

[3] Department of Transportation, Marine Casualty Report, SS EDMUND FITZGERALD, 28 July 1977. National Transportation Safety Board, Report No. NTSB–MAR–78–3.

[4] Gen. Docket No. 82–617, released September 3, 1982, 47 FR 40189.

[5] CGD 80–024, 46 FR 43736, October 2, 1982.

[6] Class A and B EPIRB's operate on aviation frequencies 121.5 MHz and 243 MHz. A Class A EPIRB is required by the Coast Guard to be carried by certain categories of vessels operating on the high seas. Class C EPIRB's operate on marine VHF channels 15 and 16 for use primarily by recreational boaters operating in coastal waters.

LCA sees no requirement for a special class of survival craft EPIRB for the Great Lakes and finds technical and operational considerations which seriously militate against the use of these EPIRB's. LCA has furnished these comments to the Coast Guard in response to its notice. LCA requested the Commission to defer its action on Class D and Class E EPIRB's until the Coast Guard considers its objections.

9. In addition to LCA's objections, a number of manufacturers informed the Coast Guard that the estimated market of 400 EPIRB's is simply too limited to justify production of special EPIRB's with the required automatic activation and float free characteristics. The Coast Guard is proceeding with its rulemaking to require subject vessels to carry two currently available Class C EPIRB's rather than the proposed new Class D and E EPIRB's.

10. In view of the above, we believe that the proposed rules relating to Class D and E EPIRB's should not be adopted. However, as suggested by LCA we are amending the rules to specifically permit Class C EPIRB's to be used by vessels operating in the Great Lakes as well as by any other vessels which the Coast Guard may require or recommend to be so equipped in the future.

11. A new Class S EPIRB is addressed in a separate rulemaking on the second set of amendments to the Safety of Life at Sea Convention, 1974 (SOLAS) now before the public for comment.[7] Since the proposed rules for the Class S EPIRB incorporate many of the requirements of the current rules, it would be inconsistent to separate the technical from the operational requirements as proposed in the NPRM. We will reconsider this separation of responsibilities for technical and operational requirements between the FCC and the Coast Guard in the Report and Order in the docket implementing the Class S EPIRB.

12. The rule amendments in the attached Appendix clarify the rules concerning Class C EPIRB's on the Great Lakes by amending the definitions, eligibility and license application rules. These rules are permissive in nature and do not impose additional requirements or burdens on any individual or entity. Therefore, pursuant to section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), we certify that these rules will not have a significant impact on a substantial number of small entities.

13. Regarding questions on matters covered in this document contact Nicholas G. Bagnato (202) 632-7175.

14. Accordingly, it is ordered, That under authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached appendix, effective November 19, 1984.

15. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

16. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARINE SERVICE

1. In § 83.3 a new paragraph (t) is added as follows:

§ 83.3 Maritime mobile service.

* * * * *

(t) *Emergency Position-Indicating Radiobeacon Station.* A station in the mobile service the emissions of which are intended to facilitate search and rescue operations.

§ 83.4 [Amended]

2. Section 83.4 is amended by removing paragraph (w).

3. In § 83.24 paragraph (c) is revised as follows:

§ 83.24 Eligibility for station license.

* * * * *

(c) Class C EPIRB stations will be authorized (1) for use aboard vessels operating within 20 miles of shore and in the Great Lakes, or (2) on passenger and cargo vessels with survival craft as required or recommended by the U.S. Coast Guard.

4. In §83.28, paragraph (a)(1) is revised as follows:

§ 83.28 Standard forms to be used.

* * * * *

(a) * * *

(1) *FCC Form 506/506-A, Application for License and Temporary Operating Authorization for Ship Radio Stations.* FCC Forms 506 and 506-A are available as a single application form. Forms 506 and 506-A shall be completed concurrently when applying for a new or modified license to operate a ship station on terrestrial or satellite frequencies. No modification is required for authority to operate an EPIRB. For INMARSAT ship earth stations Form 506 must be submitted to the Commission accompanied by a letter stating that the prospective licensee has negotiated an operating agreement with the INMARSAT Organization to utilize its space segment. Form 506-A must be retained by the applicant for temporary authority to operate its station for 60 days.

* * * * *

5. In § 83.141, paragraph (d) is revised to read as follows:

§ 83.141 Special requirements for survival craft stations.

* * * * *

(d) When an EPIRB is part of a survival craft station, the EPIRB shall be limited to:

(1) The frequencies 121.5 and 243 MHz using A9 emission, or;

(2) The frequencies 156.75 and 156.8 MHz using F9 emission.

6. In § 83.252, paragraph (b) is revised as follows:

§ 83.252 Equipment to facilitate search and rescue operation.

* * * * *

(b) Emergency position-indicating radiobeacons may only be modulated as specified in § 83.137 and only on the frequencies 121.5 and 243 MHz or 156.75 and 156.8 MHz.

7. In § 83.352, a new paragraph (d) is added as follows:

§ 83.352 Frequencies for use in distress and search and rescue operations.

* * * * *

(d) The frequencies 156.75 and 156.8 MHz (class F9 emission) are available to EPIRB stations for facilitating search and rescue operations.

8. In § 83.401, the list of frequencies following the introductory sentence of paragraph (c) is revised as follows:

§ 83.401 Assignable frequencies for direction finding.

* * * * *

(c) * * *

410 kHZ	121.50 MHZ
500 kHZ	156.75 MHZ
2182 kHZ	243.00 MHZ
8364 kHZ	

[FR Doc. 84-27168 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

[7] PR Docket 84-759, released August 2, 1984, 49 FR 31736, August 8, 1984.

47 CFR Part 90

[PR Docket 83-755; FCC 84-462]

Deletion of Various Restrictions Against the Use of Mobile Relays in the Private Land Mobile Frequency Bands Below 470 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order extending the option of mobile relay operation to licensees in the Land Transportation Radio Services operating in the 450–470 MHz band, where frequencies are already paired for two-frequency operation. The Commission declines, however, to extend mobile relay operations to additional radio services operating on the unpaired frequencies below 450 MHz out of concern for interference between mobile relay operations and the large number of existing single-frequency simplex systems operating there. This action is taken as part of the Commission's Regulatory Review Program.

DATE: Effective November 13, 1984.

FOR FURTHER INFORMATION CONTACT: Harold Salters, Private Radio Bureau, (202) 632–7597.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Report and Order

In the matter of amendment of § 90.243 of the Commission's Rules to Delete Various Restrictions Against the Use of Mobile Relays in the Bands Below 470 MHz.; PR Docket No. 83–755.

Adopted: September 25, 1984.
Released: October 4, 1984.

By the Commission.

Background

1. On July 21, 1983, the Commission adopted a *Notice of Proposed Rule Making*, pursuant to its Regulatory Review Program, proposing to remove restrictions on mobile relay operation in the private land mobile frequency bands below 470 MHz.[1] A mobile relay station is a base station that automatically retransmits communications which originate at mobile stations, significantly expanding the effective coverage of a land mobile system. Section 90.243 of the Rules (47 CFR 90.243) permits the use of mobile relays in the bands below 450 MHz in the 48 contiguous States in all Private Land Mobile Radio Services except the Land Transportation, Business, Special Industrial, Relay Press, Radiolocation, Manufacturers, and Motion Picture Radio Services.[2] [3] Mobile relay operations are permitted in the 450–470 MHz band in all Private Land Mobile Radio Services except the Radiolocation Service and the Motor Carrier, Taxicab, and Automobile Emergency Radio Services.[4] (*See* 47 CFR 90.85–90.95). In the Private Land Mobile Radio frequency bands above 470 MHz, mobile relay operations are permitted in all radio services.[5]

2. In the *Notice*, we noted that we often receive requests for waivers of our restriction on mobile relays in the Land Transportation Radio Services, particularly in the 450–470 MHz band where frequencies are already paired. We invited comments on whether the lack of a band plan pairing frequencies in the bands below 450 MHz should affect our decision on this proposal and whether frequency coordination would be the best mechanism for accommodating mobile relay systems.[6]

3. Seven parties filed comments in response to the *Notice* in this proceeding: The Association of American Railroads (AAR), the Central Committee on Telecommunications of the American Petroleum Institute (API), the Associated Public-Safety Communications Officers, Inc. (APCO), the International Taxicab Association (ITA), the National Association of Business and Educational Radio, Inc. (NABER), the National Ski Patrol System, Inc. (NSPS), and the Special Industrial Radio Service Association, Inc. (SIRSA). Reply comments were filed by ITA, Motorola, Inc. (Motorola), the General Electric Co. (General Electric), the Peabody Coal Co. (Peabody) and the National Mobile Radio Association (NMRA).

Discussion

4. Only AAR and Peabody unequivocably supported our proposal. All other parties noted serious obstacles that would have to be surmounted before implementation of mobile relays in the bands below 450 MHz. Generally, the commenters believe that while frequency coordination would be the only practicable way to implement mobile relay systems in the frequencies below 450 MHz, the lack of a pre-existing band plan pairing frequencies, combined with the large numbers of existing single-frequency (simplex) land mobile operations licensed on a relatively small number of VHF frequencies, would make the task of selecting two frequencies for mobile relay operation difficult at best. Parties also feared that even if mobile relays could be established on the unpaired frequencies, licensees and users would experience interference problems created by the operation of mobile relays on unpaired frequencies that are also employed by single frequency simplex systems.

5. SIRSA, the Commission's recognized frequency advisory committee for the Special Industrial Radio Service, urged the Commission to retain its current rules, stating that the absence of a frequency pairing scheme when coupled with the existing congestion on VHF frequencies precludes the introduction of mobile relays on special industrial 150 MHz frequencies.[7] "Adoption of the rule amendment proposed by the Commission," states SIRSA, "would lead to chaotic conditions in the operation of mobile relay and simplex systems, and create frequency coordination problems that would totally evade resolution short of removing a system from its assigned channel(s)."[8] SIRSA also warns that

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[1] *Notice of Proposed Rule Making* (FCC 83–353), released July 25, 1983, 48 FR 34782 (August 1, 1983).

[2] The private land mobile frequency bands below 450 MHz are 25–50 MHz (low-band VHF) and 150–174 MHz (high-band VHF).

[3] In the *Notice*, we indicated we would retain the prohibition against mobile relays in the Radiolocation Service. The Radiolocation Service is a fixed point-to-mobile service with no requirements for mobile-to-mobile communications. Typically, mobile units in the Radiolocation Service only receive transmissions from the radiolocation station in order to make calculations of direction, distance, speed or position.

[4] The Railroad Radio Service is permitted to employ mobile relay operation on a secondary basis to other co-channel operations. *See* 47 CFR 90.243(b)(3).

[5] The private land mobile frequency bands above 470 MHz are 470–512 MHz (in thirteen urban areas) and 806–821 MHz and 851–866 MHz.

[6] The terms "paired frequencies" and "band plan" refer to the Commission's practice of systematically assigning certain frequencies for use by mobile stations and other frequencies for use by base stations (mobile relays). In the 800 MHz band, the band plan pairs the base station transmit frequencies 851–866 MHz with the mobile station transmit frequencies 806–821 MHz using 45 MHz spacing between associated mobile and base station frequencies. In the 470–512 MHz band, the spacing is 3 MHz between associated mobile and base station frequencies. In the 450–470 MHz band, separation between base and mobile transmit frequencies is 5 MHz, with the mobile station transmitting on the higher frequency. Below 450 MHz, no band plans have ever been developed and hence the frequencies are not paired. These UHF frequency band plans were specifically designed to facilitate mobile relay operation.

[7] There are only 29 high-band VHF frequencies allocated to the Special Industrial Radio Service (47 CFR 90.73(c)). In its comments, SIRSA documents the high level of congestion on these channels in both urban and rural areas throughout the continental United States. (SIRSA, *Comments*, pp. 6–7.)

[8] SIRSA, *Comments*, p. 11.

intersystem interference between mobile relay operations and simplex operations may force small businesses using single frequencies to spend large sums of money to change their operating frequency or even replace their entire system with one operating in a different frequency band.

6. NABER, the Commission's recognized frequency advisory committee for the Business Radio Service, offered support for our proposal on the condition that the Commission require frequency coordination of applications for business radio systems in the bands below 450 MHz and that NABER be allowed to coordinate those applications.[9] "Without frequency coordination," states NABER, "the prospect for significant degradation in the quality of the service available to users would be significant."

7. General Electric, in its reply comments, states that the absence of a band plan for the VHF frequencies may be an insurmountable obstacle to the introduction of mobile relays, particularly in light of the non-coordinated radio environment below 450 MHz in certain services. Believing the Commission was correct to first devise band plans to accommodate mobile relays between 450-512 MHz and at 800 MHz, General Electric believes the same applies for the VHF bands. AAR doubts the Commission could devise a band plan, stating: "* * * a band plan would have repercussions on present users of the frequencies selected and would be difficult to achieve on a nationwide basis because of frequency assignments already made."

8. The commenters were not confident that frequeny coordination could provide the mechanism for establishing mobile relay operations in the VHF band. NMRA joined with General Electric in doubting that frequency coordination committees, no matter how proficient, could effectively cope with mobile relays in the bands below 450 MHz, where simplex systems dominate. Motorola believes that even with frequency coordination of the VHF bands, the fact that there are only 11 high-band VHF channels allocated to the Business Radio Service makes it impossible to contemplate mobile relay operations there without destructive, incurable interference between mobile relays and the large number of existing single frequency simplex radio systems.

9. APCO, API, and NSPS each oppose our proposal as it relates to the operation of mobile relays in the bands below 450 MHz. APCO, which coordinates mobile relays below 450 MHz for the Police and Local Government Radio Services,[10] objects to the extension of mobile relays to the Special Emergency Radio Service below 450 MHz, unless APCO is designated the frequency coordinator for the Special Emergency Radio Service.[11] APCO fears that under the Commission's interservice sharing rules (47 CFR 90.176), Special Emergency applicants may request frequencies from other Public Safety Radio Services to operate mobile relays and thus cause interference to existing operations on these other frequencies. NSPS objects to our proposal because there are only 8 high-band VHF frequencies available to the Special Emergency Radio Service which are already heavily loaded with simplex operations. API is generally opposed to the introduction of mobile relays in the bands below 450 MHz as they believe the intermix of single frequency simplex operations with mobile relay operations will lead to inter-system interference and difficult frequency coordination problems. Specifically, API objects to allowing mobile relays below 450 MHz in the Manufacturers Radio Service because 30 high-band VHF Manufacturers' frequencies are shared by Petroleum Radio Service licenses.

10. ITA, the Commission's recognized frequency advisory committee for the Taxicab Radio Service, stated its belief that taxicab operators do not desire nor need mobil relays because they have no mobil-to-mobile communications requirements. ITA believes that increased frequency congestion would be the result of permitting two-frequency mobile relay operation where simplex operations have traditionally sufficed. ITA urged the Commission to retain its present policy of only granting waivers to operate mobile relays in the Land Transportation Radio Services upon a demonstrated showing of need.

Decision

11. After careful consideration of the comments and reply comments submitted, we have determined that it is in the public interest, convenience and necessity to remove the restrictions on mobile relay operations in those frequency bands where band plans pairing frequencies already exist. Hence, we are removing, as described in the attached Appendix, the restrictions against mobile relays in the 450–470 MHz band in the Motor Carrier, Taxicab and Automobile Emergency Radio Services. We are convinced, however, that the current restrictions on mobile relay operations in the bands below 450 MHz, where there are no band plans, should be retained.

12. We are persuaded by the comments that the existence of a band plan pairing frequencies is the determinative factor in deciding which additional private land mobile radio services should be authorized mobile relay operations in a particular frequency band. As private land mobile frequencies in the 450–470 MHz band are already paired for two-frequency operation, we see no reason to continue prohibiting mobile relays in the Land Transportation Radio Services in that band. In its reply comments, General Electric supports the removal of mobile relay restrictions in the 450–470 MHz band, stating, "Correcting this deficiency in the rules is long overdue. It simply cannot be argued that the same reasons that justify mobile relays in the other services are not present in all of the land transportation services. Regardless of the other actions taken in this proceeding, the incongruity of disallowing mobile relay licensing in those services must be discarded."[12] We agree. ITA states that the Taxicab Radio Service does not have the mobile-to-mobile communications requirements that would militate in favor of generally authorizing mobile relays in that radio service. ITA fails to convince us, however, that this means we should eliminate the mobile relay option for users in a frequency band that is already paired. No licensee in the Taxicab Radio Service would spend the large sum required to install and operate a mobile relay unless it believed the mobile relay could enable it to better meet its communications requirements. We will not prohibit a licensee from employing the mobile relay option in the 450–470 MHz band where there is no

[9] Pursuant to 47 CFR 90.175(e)(10), applications for business radio systems on the frequencies below 450 MHz do not require frequency coordination. The entire question of frequency coordination in the Private Land Mobile Radio Services, including the issue of whether a frequency advisory committee should be designated for business radio applications below 450 MHz, is the subject of the proceeding in PR Docket 83–737, "Frequency Coordination in the Private Land Mobile Radio Services," *Notice of Inquiry* (FCC 83–329), released July 25, 1983, 48 FR 35149 (August 3, 1983).

[10] APCO is the only recognized frequency advisory committee for the Police Radio Service and one of four recognized committees for the Local Government Radio Service. Mobile relays are permitted in both services below 450 MHz.

[11] Pursuant to 47 CFR 90.175(e)(2), applications for Special Emergency Radio facilities do not require evidence of frequency coordination. The issue of frequency coordination in the Special Emergency Radio Service is part of the Commission's general inquiry into frequency coordination in the Private Land Mobile Radio Services, PR Docket 83–737, *supra*.

[12] General Electric, *Reply Comments*, p. 6.

risk of significant interference between mobile relay operations and simplex operations.

13. In the bands below 450 MHz, we recognize the potential for harmful interference between mobile relay operations and existing simplex operations. In its reply comments, Peabody Coal supports permitting mobile relay operations in the bands below 450 MHz, noting that in the remote parts of the continental United States where Peabody operates it has found that VHF mobile relay operations offers superior communications range. In these remote areas, claims Peabody, several UHF mobile relays would have to be installed to achieve a comparable quality of service. We agree with Peabody that there are many remote geographic areas and radio environments where VHF mobile relay operation improves system coverage with little or no risk of interference to existing simplex radio systems. However, we are convinced by the comments that the threat of interference between mobile relay operations and simplex systems precludes us from authorizing VHF mobile relay operation throughout the United States. Permitting VHF mobile relay operations on a routine basis in our two largest private land mobile radio services, Business and Special Industrial Radio, could lead to serious interference problems. Peabody and other licensees operating in remote areas have always been able to request a waiver of the restriction on VHF mobile relay operation. Upon a showing of need and a demonstration that co-channel and adjacent channel licensees would be unlikely to suffer interference, the Commission grants such waiver requests.[13]

14. We have noted the concerns the commenters had regarding the difficulty for frequency coordinators of coordinating mobile relays. We do not believe that the mere difficulty of coordinating mobile relays alone is an appropriate reason for us to decline relaxing VHF mobile relay restrictions. On the other hand, current coordination procedures may not be adequate to handle the additional burdens. The Commission has an on-going proceeding (PR Docket 83-737) inquiring into all facets of the frequency coordination function for the private land mobile radio services. At the termination of that proceeding, the Commission may adopt coordination procedures that would be adequate to allow us to further relax restrictions on mobile relays in those frequency bands.

Conclusion

15. In consideration of the record developed in this proceeding, we see no reason to continue prohibiting mobile relay operation where frequencies are paired. Therefore, we are adopting a rule amendment that will permit licensees in the Land Transportation Radio Services to operate mobile relays in the 450-470 MHz band. Mindful of the potential for interference between mobile relay operations and the large number of existing simplex radio systems operating in the bands below 450 MHz, where frequencies are not paired, we decline to extend the mobile relay option to additional radio services on these frequencies.[14]

16. In the *Notice* in this proceeding, the Commission certified that the rule amendments proposed would not have a significant economic impact on a substantial number of small entities. Accordingly, the Commission concluded that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. Therefore, there is no requirement for a final regulatory flexibility analysis of the rule changes now being adopted. However, in the discussion of the comments we noted that extension of mobile relay operation to the bands below 450 MHz may force small businesses operating simplex radio systems to spend large sums of money to change their operating frequency or even replace their entire system with one operating in a different frequency band in order to avoid intersystem interference from mobile relay operations. Recognizing this and other factors, we decline to extend mobile relay operations in the bands below 450 MHz.

17. Accordingly, it is ordered, That effective November 13, 1984, Part 90 of the Commission's Rules, 47 CFR Part 90, is amended as shown in the attached Appendix. Authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

18. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,

Secretary.

Appendix

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

In § 90.243, paragraph (a)(2) is revised to read as follows:

§ 90.243 Mobile relay stations.

(a) * * *

(2) Mobile relay stations will be authorized on frequencies between 450 MHz and 470 MHz in all of the services governed by this part except for the Radiolocation Service.

* * * * *

[FR Doc. 84-27161 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 84-30; RM-4444; FCC 84-445]

Amendment To Reserve Frequencies for Emergency Electrical Alarm Protection

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission designates 8 frequencies in the 450-470 MHz band for use by eligibles providing central station electrical alarm services. Without this action alarm systems would be subject to increasing levels of interference which impair the use of these systems.

DATE: Effective November 14, 1984.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Washington, D.C. 20554, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Industrial radio services, Land

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[13] Recognizing the desirability of VHF mobile relay operations to some licensees, we recently proposed authorizing mobile relay operation on narrowband frequencies in the 150 MHz band. In our *Notice of Proposed Rule Making*, PR Docket 84-279, FCC 84-80, released April 4, 1984, 49 FR 19074 (May 4, 1984), at para. 15, we identified nine frequencies which would provide the required frequency spacing for mobile relay operation and proposed allocating these to the Business Radio Service. Mindful of potential interference, we proposed reserving these channels for mobile operations and limiting the output power to 25 watts peak envelope power.

[14] In footnote 3 of our *Notice*, we observed that outside the contiguous 48 States mobile relay operations below 450 MHz are also authorized in the Business Radio Service (with low power conditions) and the Special Industrial Radio Service (without low power conditions). We therefore proposed the deletion of the low power operation requirement for Business Radio Service relays contained at Section 90.243(b)(2). While no comments addressed this specific proposal, we have decided to retain the rule in its current form in light of the concerns expressed in the comments regarding inter-system interference between single frequency simplex systems and mobile relay operations.

Transportation radio services, Private land mobile radio services, Public safety radio services, Radiolocation radio service, Special emergency radio service.

Report and Order

In the matter of Amendment of Part 90 of the Commission's Rules and Regulations to Reserve Frequencies for Emergency Electrical Alarm Protection, PR Docket No. 84–30, RM–4444.

Adopted: September 26, 1984.
Released: October 11, 1984.

By the Commission.

Introduction

1. On January 19, 1984, the Commission adopted a *Notice of Proposed Rule Making* proposing: (1) To assign exclusively to central station electrical protection companies frequencies which lie between (12.5 kHz offset from) channels in the 450–470 MHz Business Radio Service band; and (2) to allow central station operators to use higher antennas than currently allowed on these offset frequencies.[1] [2] The Commission proposed to make the eight offset frequencies which fall between the central station primary frequency assignments exclusively available to central station companies.[3] On these offset channels, the Commission proposed to authorize central station licensees antennas twenty feet above supporting structures, rather than twenty feet above ground. The Commission also inquired into the need for an exclusive frequency allocation at 928–929 MHz and 952–960 MHz for central station eligibles.

Comments

2. Comments on the Commission's proposals were received from seven parties: the Central Committee on Telecommunications of the American Petroleum Institute (API), the American Association of Retired Persons (AARP), the National Black Media Coalition (NBMC), the National Association of Business and Educational Radio, Inc. (NABER), the Central Station Electrical Protection Association (CSEPA), the Honorable Hamilton Fish, Jr., Member, U.S. House of Representatives, and the National Association of Retired Federal Employees (NARFE). Reply comments were received from API and CSEPA.

3. All parties except NABER supported the Commission's proposal to designate eight 450–470 MHz offset frequencies for use by central station electrical protection companies. Five parties also felt the Commission should propose an exclusive allocation for the industry at 900 MHz. Both API and NABER opposed any exclusive allocation at 900 MHz for central station eligibles.

Discussion

450–470 MHz Band Exclusive Allocation

4. Our objective in proposing to make the offset frequencies in the 450–470 MHz band available exclusively for central station company use was to conform the use of these offsets with the general actions we had taken in Docket No. 80–605.[4] In that proceeding we allowed eligibles in the Private Land Mobile Radio Services to operate on frequencies 12.5 kHz between the primary channels in the 450–470 MHz band. Each offset channel was made available to the same Private Radio Service that was authorized the adjacent primary channels.

5. When the Commission adopted offset rules in PR Docket No. 80–605, ten primary frequencies had been allocated exclusively for the use of central station alarm licensees. Although central station alarm companies comprise only a part of the Business Radio Service, the Commission designated the offsets located between central station alarm frequencies for use by all Business Radio Service eligibles. Because this action did not limit use of these offsets to the central station systems only, it created a potential for interference to alarm operations. Therefore, in keeping with our policy to limit offset frequency operations to those eligible to use the primary frequencies on either side, the Commission proposed to allow only central station companies to use the 8 specific offset frequencies.[5]

6. As noted above, five of the six commenting parties agreed that central station electrical protection companies should have exclusive use of the offset frequencies. CSEPA, AARP, and NBMC all argued that increasing the number of frequencies available exclusively to central protection companies in the 450–470 MHz band would enable these companies to serve more customers, including the elderly, the poor, and the handicapped and would benefit American society as a whole. For example, NBMC noted:

> The primary concern of NBMC in this proceeding is with the security of the Black communities across the nation, where business and residences frequently are more susceptible to crime than are the communities at large. Because the income of Black citizens and businesses tends to be lower than that of the general population, the need for inexpensive yet effective protection methods is acute. * * * Without affordable, widely available security devices, the public—particularly Black citizens will suffer. The impending elimination of telephone company facilities most suited to alarm services makes radio service even more important to the industry's ability to offer reasonable protection service.
>
> NBMC comments, pp. 1–3.

API, on the other hand, was more cautious in its endorsement:

> The Central Committee does not object to the Commission's reservation of the eight "offset" frequencies which are located between the five frequency pairs now dedicated for central station use on a primary basis. The Central Committee does not generally favor this type of "after the fact" reservation; but it agrees with the Commission that the adoption of these rule changes may afford relief to CSEPA members without detrimentally affecting other licensees. The Central Committee strongly endorses the Commission's proposal to "grandfather" all existing licensees of these 12.5 kHz "offsets" so that present operations will not be disrupted. Further, the Central Committee urges the Commission to ensure that CSEPA acquiesces in the shared use of these channels by others, on an interservice basis, where the assignments are not employed for central station alarm purposes.
>
> API comments, p. 7.

7. NABER flatly opposed the proposal to exclude other Business Radio Service eligibles from use of these offset frequencies. First of all, it disputes CSEPA's contention that the nature of the central station protection industry warrants preferential use of these

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[1] *Notice of Proposed Rule Making*, PR Docket No. 84–30, 49 FR 5639 (February 14, 1984).

[2] Central station commercial protection service is defined as an electrical protection and supervisory service rendered to the public from and by a central station accepted and certified by one or more of the recognized rating agencies or the Underwriters Laboratories (UL), or Factory Mutual System. 47 CFR 90.75(c)(27).

[3] Within the boundaries of urbanized areas of 200,000 or more population, defined in the United States Census of Population, 1960 vol. 1, table 23, page 1–50, the following frequencies may be used only by persons rendering a central station commercial protection service: 460.900 MHz, 460.925 MHz, 460.950 MHz, 465.900 MHz, 465.925 MHz, and 465.950 MHz. Other stations in the Business Radio Service may be licensed on these frequencies only when all base, mobile, relay, and control stations are located at least 75 miles from the city center or centers of the urbanized areas of 200,000 or more population. 47 CFR 90.75(c)(27). The following frequencies are available on a nationwide basis only to persons rendering a central station commercial protection service: 460.975 MHz, 461.000 MHz, 465.975 MHz and 466.000 MHz.

[4] *Report and Order*, PR Docket No. 80–605, 46 FR 45953 (September 16, 1981).

[5] CSEPA has indicated that the central station service companies will use these frequencies for the operation of low power transmitters in protected premises to signal the central station company when an alarm is triggered. While telephone lines are presently the primary means of transmitting alarm signals, CSEPA argues that increasing costs make it economically desiralbe to shift this signalling to private radio frequencies.

channels because of its quasi-public safety status. NABER instead maintains:

> Despite protestations to the contrary, CSEPA remains essentially a Business Radio user with needs which could no more be characterized as "public safety" than such other Business Radio users, as ambulances or clinics. * * * [F]or the Commission to sequester these frequencies * * * would create bad precedent in terms of dealing with similar demands from other providers of specialized private land mobile services.
>
> NABER's comments, p. 5.

In short, it is NABER's position:

> * * * that the rules affecting the 400 MHz band proposed by the Commission are both unjustified and unnecessary and therefore should not be adopted.
>
> *Id.*, p. 4.

8. We have considered the comments and conclude that the public interest will be served by allowing central station companies exclusive access to the 450–470 MHz band offset channels. We generally allow Private Land Mobile Radio Services licensees to operate on the offset channels between their primary assignments.[6] This action merely extends the same approach to a specific subset of frequencies within the Business Radio Service. While NABER disputes the justification for doing this, we think that the approach we have proposed will allow more intensive use of these channels within the major urban centers. We are persuaded more stations will be able to make greater use of these channels if we restrict them to central station companies because of the resulting compatibility between operations on the primary and offset channels. Moreover, by allowing CSEPA to coordinate both the primary and offset channels, the likelihood of interference within the urban areas is reduced. Outside major urbanized areas, all Business Radio Service eligibles will still be able to use both the primary and offset channels designated for CSEPA use and, to the extent central station companies do not use the offsets in major urbanized areas, they will be available to other users under our interservice sharing rules.[7]

Antenna Height

9. CSEPA in its comments also endorsed adopting the proposed modification to the antenna height requirements. It was supported in this position by the NBMC. As CSEPA explained in its petition for rule making:

> In order to comply with the Commission's rules an alarm system installed in the 10th floor of a building would require the antenna to be mounted near ground level with the transmission line run through a conduit or along the side of the building. It is often not possible to obtain permission from building owners or managers to comply with this requirement, which would also result in degradation of the signal where long transmission cables are employed.
>
> RM–4444, p. 23.

NABER in its comments argued even secondary operations on the offset frequencies should not be allowed to exceed the twenty foot above ground rule, stating higher antennas will cause "interference to existing licensees." CSEPA in its reply comments does not specifically address NABER's objection on interference grounds.

10. CSEPA's failure to address the possibility of interference makes this issue more difficult to resolve. Nonetheless, we have decided to relax the antenna height rule as proposed. To the extent that urbanized area alarm systems are involved, the requirement that other Business Radio Service operations be 75 miles or more from city centers, combined with the low powers of alarm signalling transmitters, should keep potential interference to a minimum. The secondary status of operations on the offsets and the fact that CSEPA will be coordinating assignment should also minimize the likelihood of interference to adjacent channel operations within the cities.

11. With regard to central station operations which may occur at the periphery of the urban area, there is a greater potential for interference to both adjacent and co-channel Business Radio Service eligibles who are not central station companies. We expect this can be minimized through coordination between the parties. To the extent that it cannot be, operations at the higher elevations are secondary both to co-channel and adjacent channel operations under the twenty foot rule, and must give way if on other solution is available.

900 MHz Exclusive Allocation

12. The most controversial aspect of our *Notice* was the question of the need for an exclusive allocation at 900 MHz for central station operation. Before we discuss the comments, however, we feel a recitation of the history of what has already occurred at 900 MHz will be useful.

13. In a *Report and Order* in Docket No. 17891 the Commission allocated frequencies in the 952–960 MHz band for use by central station protection companies.[8] From 1968 until 1979 these frequencies essentially remained unused. Then in 1979 the Commission commenced a proceeding in Docket No. 79–18 to re-allocate this and other spectrum at 900 MHz to be used for distribution automation by power companies. This includes automatic meter reading, load management, environmental monitoring, and other operational functions.[9] Final rules were adopted which designated forty-eight 25 kHz channels in the 900 MHz range for private and public multiple address systems, including distribution automation systems.[10] In our *Third Notice* we addressed non-power company needs for multiple address frequencies and proposed to make fourteen paired channels and eight unpaired channels available to the Fixed Service for use by all persons eligible under Part 94 of the Rules. At this time the Commission specifically recognized this would entail mixing, among others, "central station alarm, traffic light control, trucking, railroad classification yard operation, and petroleum and natural gas production field monitoring and control." We accepted this approach in our *Second Report and Order*, in part because our previous experience persuaded us sharing would "maximize the use of the spectrum by making it available to whomever needs it most."[11] We were concerned if the spectrum were divided into blocks and allocated to particular kinds of users, spectrum use in this band would continue to languish as it had for the preceding decade.[12] With a variety of eligibles competing for the spectrum on an as needed basis, we felt the manufacturers would be more likely to introduce new equipment product lines. We also felt the spectrum management inefficiencies inherent in block allocations would be avoided.[13]

14. Approximately two years have passed since the adoption of our *Second Report and Order*. Now as equipment is beginning to appear on the market, CSEPA has asked us to once more address this band and allocate 18

[6] *Report and Order*, PR Docket No. 80–605, 46 FR 45953 (September 16, 1981). 47 CFR 90.267.

[7] *Report and Order*, PR Docket No. 81–110, 46 FR 55704 (November 12, 1981). 47 CFR 90.176.

[8] *Report and Order*, Docket No. 17891, 13 FCC 2d 713 (June 24, 1968).

[9] *Notice of Proposed Rule Making*, Docket No. 79–18, 44 FR 12221, (March 1, 1979), *Further Notice of Proposed Rule Making*, Docket No. 79–18, 45 FR 2060 (January 10, 1980); *Third Notice of Proposed Rule Making*, Docket No. 79–18, 46 FR 10768 (February 4, 1981).

[10] *Report and Order*, Docket No. 79–18, 46 FR 9550 (January 30, 1981). *Second Report and Order*, Docket No. 79–18, 88 FCC 2d 1173 (January 13, 1982).

[11] Cf. *Third Notice of Proposed Rule Making*, Docket 79–18, *supra*, at para 2.

[12] *Id.* para 9.

[13] See *Second Report and Order*, Docket No. 79–191, 90 FCC 2d 1281 (July 22, 1982), for a discussion of the inefficiencies of the block allocation approach to spectrum management.

frequencies at 900 MHz for its members' exclusive use.

15. As an initial point CSEPA acknowlegdes that little use was made of the 900 MHz frequencies that were previously allocated to the industry. It maintains there were mitigating circumstances.[14] CSEPA further contends:

> Perhaps more to the point, however, the present situation with respect to the usage by the alarm industry of the 900 MHz multiple address frequencies * * * clearly shows that there is now a heavy demand for these 900 MHz frequencies by central station commercial protection service operators.

CSEPA comments, p. 11.

CSEPA also states that its membership is engaged in safety of life and property activities and therefore is covered by the provisions of Section 331(a) of the Communications Amendments Act of 1982. In this Act the Congress urged the Commission to manage the spectrum in ways which will promote the safety of life and property.[15] Finally CSEPA contends that its proposal for an exclusive 900 MHz allocation is consistent with the policy of the Congress to encourage new service offerings.[16]

16. In summation, CSEPA maintains an exception to our policy not to grant exclusive frequency allocations is warranted in light of the particular circumstances involved:

> Only by such a deserved exception to general policy will central station operators located in our major metropolitan areas (and crime centers) be assured of 900 MHz access. Only by such an exception will the public be assured of a competitive environment in the provision of the most economical and efficient protective services possible. Only by such an exception will a huge specialty alarm radio/computer equipment market be assured. Only by such an exception will the protective services of the alarm industry be made more affordable to the public and, especially, the elderly and minorities presently bearing the brunt of the appalling impacts of crime on these segments of our population. The application filings already made by the alarm industry, in advance of any wide-spread type acceptance and field-tested-for-the-purpose equipment, constitute the best evidence the Commission could have that any multiple address frequencies exclusively allocated to the listed central station alarm industry will not lie fallow. The reason for the general policy against exclusive allocation not present, an exception to that policy is called for.

CSEPA Comments, pp. 22–23.

17. CSEPA is essentially supported in this position by Congressman Fish, the NBMC, the NARFE, and the AARP. This position is contested, however, by API and NABER. Thus, in response to these arguments API contends:

> First, the reservation of particular frequency assignments for specified purposes endorses a philosophy directly counter to that repeatedly espoused by the Commission. . . .

API Comments, p. 5.

In this regard API notes that the reservation of a particular frequency band for specified operations results in the intensive use of these assignments in certain geographic regions while the same assignments remain unused in other regions. In API's view, the continued availability of the 900 MHz multiple address frequencies on a "pooled" basis will ensure that every entity with a legitimate need for use of the frequencies will be afforded an opportunity to employ them. API also points out that an exclusive allocation of 900 MHz multiple address frequencies for alarm purposes would also present severe practical problems, in light of the already intensive interest in the use of these channels throughout the country:

> The Commission has already received more applications than there are available frequencies for multiple address operations in Houston and in New York. Moreover, it is reported that there may soon be none of these 900 MHz frequencies available for assignment in Southern California. This interest in the use of 900 MHz MAS channels evidences the equally legitimate needs of many applicants. . . . Should the Commission determine at this late date that reallocation of these assignments is appropriate, the Central Committee would become a vocal advocate for an exclusive 900 MHz MAS allocation for vital oil and gas telecommunications operations.

API Comments, pp. 6–7.

18. API also maintains CSEPA has failed to demonstrate why the operation of alarm devices should be permitted to foreclose the use of these channels by other "vital services," or how the preclusion would serve the public interest, convenience, and necessity. API argues that the same factors which make these channels particularly attractive for central station operation are equally applicable to oil and gas industry eligibles as well as other Part 94 users. It notes these multiple address frequencies can be utilized to enhance the safe and efficient operation of oil and gas production fields and pipeline operations by providing spectrum for computer administered supervisory control systems, automatic valve systems and other applications. In sum, API argues all of these important functions as well as those of other Part 94 eligibles must be fulfilled by the limited number of available 900 MHz multiple address channels. An exclusive allocation of these frequencies to the alarm industry, API contends "would irreparably damage the ability of other licensees to plan and employ systems using this valuable spectrum."

19. In light of the foregoing, API contends exclusive allocations do not represent a viable solution to the problem. Instead it believes that:

> * * * effective geographic sharing of available channels will promote the greatest degree of spectrum efficiency * * *. An exclusive allocation of these 900 MHz multiple address channels would, however, only exacerbate spectrum unavailability presently experienced and anticipated for all Part 94 eligibles.

API reply comments, pp. 7–8.

20. With regard to CSEPA's contention that an exclusive allocation is warranted because of its members' promotion of safety of life and property, API responds that many of the present applicants for this spectrum provide services which promote safety of life and property. This being the case, the shared approach adopted in Docket 79–18 was, in API's view, the appropriate Commission action to promote the safety of life and property, not an exclusive allocation for CSEPA's members. API also disputes CSEPA's contention that it was the intent of Congress to accord special status to the commercial alarm protection industry:

> The provisions of the Communications Act to which CSEPA refers were included to urge the Commission to make sufficient spectrum available for *public* safety agencies * * *. The exclusive allocation sought by CSEPA would not further Congressional goals. Congress' intent was to assure that *public safety* agencies were accorded access to sufficient *land mobile* radio spectrum. CSEPA confuses its *private* provision of protection services in *operational-fixed* facilities with public safety *land mobile* operations.

API reply comments, pp. 9–10.

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[14] CSEPA argues when the 900 MHz one way frequencies were allocated for central station use in 1981 the cost of telephone company wireline facilities was relatively small compared to the cost of 900 MHz radio facilities. This has changed however with the increased cost of private wireline facilities. As a result CSEPA maintains "the cost of providing high quality alarm service has increased to the point where many persons are unable to afford such service. The cost of the radio equipment in the meantime has come down. . . ."

[15] Section 331 [47 U.S.C. 332] (a)] provides:

> In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with Section 1 of this Act, whether such action will—
>
> (1) promote the safety of life and property;
>
> (2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principals, user operational requirements, and marketplace demands;
>
> (3) encourage competition and provide services to the largest feasible number of users; or
>
> (4) increase interservice sharing opportunities between private land mobile services and other services.

[16] *Conference Report*, Communications Amendments Act of 1982, August 19, 1982, page 52.

21. On this point API further contends that there is a fundamental difference between commercial protection operations and public safety communications. While API believes that special consideration may be warranted for "truly public safety organizations who are publicly funded and whose responsibilities include police and fire protection for the entire community" it maintains that CSEPA's members provide for-hire services and do not warrant similar consideration:

> While the services of the electrical alarm industry may be quite valuable, the Commission must not be misled into believing that central station protection operations require the same regulatory treatment as do police, fire and other municipal communications needs.

API reply comments, p. 11.

22. API also disputes the application of the New Technologies and Services Amendment of the Communications Act to the instant situation. It points out that the Commission has already allocated the 900 MHz multiple address frequencies for use by alarm industry eligibles. Accordingly, API argues, the Commission already has encouraged the use of this technology. Moreover, API concludes the technology employed by central alarm operations is neither new nor so different from the technology employed by other Part 94 eligibles that it deserves special encouragement. NABER shares API's views and opposes any exclusive 900 MHz allocation for central station companies.

23. We have considered these arguments and are not persuaded an exclusive allocation at 900 MHz for central station operations is warranted. On January 25, 1978, the Commission reconsidered a plea by CSEPA to transfer its operations from the Business Radio Service to the Special Emergency Radio Service or to the Public Safety Radio Services.[17] Parties commenting in that proceeding argued that central station electrical protection entities:

> * * * should not be equated in terms of their claim to the radio spectrum with tax-supported governmental entities, which provide protection and other governmental services to the entire public.

Memorandum Opinion and Order, supra, p. 510.

In denying CSEPA's request the Commission stated:

> The Public Safety Radio Services were established primarily to accommodate local governmental requirements, and we perceive no good reason to introduce new non-governmental functions there. * * * The Commission, therefore, affirms its conclusion that commercial central station electrical protection entities do not belong in the Special Emergency Radio Service.

Memorandum Opinion and Order, supra.

24. Similarly at present we see no need to afford these eligibles special status. The nature of these services and that of public safety operations have not changed over the years. CSEPA entities are already eligible for licensing in the 900 MHZ band. Indeed, a review of license grants and pending applications indicates that filings by CSEPA members account for 50 percent of the 900 MHz records. Moreover, in major cities the filings of CSEPA entities predominate. We anticipate that CSEPA eligibles will be accommodated to a large extent on these frequencies and on the new exclusive frequencies we have now made available on the offsets at 450 MHz. Thus an exclusive allocation in the 900 MHz band would serve no useful purpose but would unjustly burden licensees and applicants in other services who also have legitimate needs to access this spectrum.

25. In view of the foregoing, the Commission finds that it is in the public interest to amend the Rules as proposed. Therefore, it is ordered, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that Part 90 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix. This action becomes effective November 14, 1984.

26. It is further ordered that this proceeding is Terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment.

Appendix

PART 90—[AMENDED]

The Federal Communications Commission amends 47 CFR Part 90 as follows: Revise § 90.267(a)(6)(ii) and amend the table in § 90.267(b) by revising the entries 460.9125 through 460.9875 and 465.9125 through 465.9875 as follows:

§ 90.267 Assignment and use of 12.5 kHz frequency offsets.

(a) * * *

(6) * * *

(ii) Sea-based stations and stations which operate on frequencies allocated for central station protection operations may utilize antennas mounted not more than 7 m. (20 ft.) above the man-made supporting structure, excluding antenna structures.

* * * * *

(b) Frequencies available for assignment under this section are as follows:

OFFSET CHANNELS AVAILABLE IN SERVICES INDICATED

*	*	*	*
460.9125	IB		Listed Central Station Protection Services. Limitation: 90.75(c)(27).
460.9375	IB		Do.
460.9625	IB		Listed Central Station Protection Services.
460.9875	IB		Do.
*	*	*	*
465.9125	IB		Listed Central Station Protection Services. Limitation: 90.75(c)(27).
465.9375	IB		Do.
465.9625	IB		Listed Central Station Protection Services.
465.9875	IB		Do.
*	*	*	*

[FR Doc. 84-27107 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

[17] *Memorandum Opinion and Order,* RM-2698, 67 FCC 2d 508 (1978).

Proposed Rules

Federal Register
Vol. 49, No. 200
Monday, October 15, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Proposed Amendment to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for proposals and comments.

SUMMARY: This notice seeks proposals and comments with respect to possible revision of rules and regulations issued under this order to permit the shipment of lemons exempt from regulation for the purposes of market development or market research. Such action is designed to expand markets for California-Arizona lemons. Three separate proposals are presented and public comment on these or alternate or additional proposals is invited.

DATES: Comments received by November 5, 1984 will be considered.

ADDRESS: Interested persons may send written comments to the Hearing Clerk, Room 1077–S Building, USDA, Washington, D.C. 20250, where they will be available for inspection during business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: Marketing Order No. 910, as amended (7 CFR Part 910), regulates the handling of lemons grown in Arizona and designated part of California. The marketing order is effective under the Agricultural Marketing Assessment Act of 1937, as amended (7 U.S.C. 601–674).

Currently, all lemons shipped into the domestic fresh market are subject to prorate regulations which attempt, on a weekly basis, to correlate lemon shipments to the current demand for lemons. Recent developments in storage technology, such as the "shrink-wrapping process" of applying a polymer film to individual lemons has resulted in discussions throughout the lemon industry of the need to develop exemptions from these weekly prorate regulations for the purposes of market research and development. Three proposals have been received by USDA–AMS which would exempt certain lemons from regulation under the marketing order for those purposes. The proposals were submitted by the Lemon Administrative Committee; Paul D. Cullen and Jeanne M. Forch, representing a group of California-Arizona lemon growers and handlers; and James A. Moody, representing the Capital Legal Foundation.

The proposal submitted by the Lemon Administrative Committee reads as follows:

Section 910.133 Marketing Research & Development Projects.

Any handler desiring to handle minimum quantities or types of shipments of lemons exempt from regulation pursuant to § 910.80, for the purpose of marketing research and development pursuant to § 910.33, shall submit a written request to the Committee containing a detailed project plan including the following:

(1) The time period of the project, including starting and termination dates.

(2) The total quantity of lemons which will be handled during the course of the project and a schedule showing the estimated amount each week thereof.

(3) A statement concerning whether the project is for the purpose of expanding existing markets or the development of new markets.

(4) A description of the container(s) in which the lemons will be handled.

(5) Detailed information concerning the manner in which the project will be conducted, including the ways in which marketing in such manner differs from existing markets for lemons and an explanation of how marketing lemons as proposed in the project will assist, improve or promote marketing, distribution or consumption of lemons.

(6) A description of the records the handler will maintain showing the handling of lemons pursuant to the project, where such records will be located and consent for the authorized representatives of the Secretary or the Committee to examine such records and make copies at such location, or elsewhere when the records are in the possession of others.

(7) The name and address of all wholesale or retail firms which will receive lemons pursuant to the project and the estimated quantities of lemons each will receive each week. Such information shall be treated as confidential by the Committee staff and representatives of the Secretary and not be disclosed to members of the Committee or others except as authorized by the Secretary or as provided in the Agricultural Marketing Agreement Act.

(8) A statement concerning the objectives of the project and the standards by which the success thereof may be objectively evaluated.

The Committee shall take action on the application within a reasonable period of time, based upon information contained therein and such other relevant information as is available to the Committee, its members or its staff. The application shall be approved, in whole or in part, and may be modified as the Committee deems appropriate, whenever the Committee determines the project will assist, improve or promote the marketing, distribution, or consumption of lemons and adequate safeguards exist so that the exempt lemons handled thereunder will not be marketed contrary to the project plan. The Committee may limit the total quantities of lemons which may be handled exempt from regulation each week or during the entire season or disallow the handling of such lemons to any wholesale or retail firm which has in the past violated a project plan.

The Committee shall promptly notify the applicant in writing of its determination and the basis thereof. If the application is denied, in whole or in part, or modified, the Committee shall inform the applicant of any information not contained in the application relied upon for its decision. The applicant may thereafter request the Committee, within 15 days after receipt of such information from the Committee, to reconsider such application and submit in support thereof such relevant information or documents as the applicant desires.

Lemons handled pursuant to this exemption shall be subject to assessments as provided in Section 910.41. Lemons not handled in the standard 38-pound cartons shall be converted thereto in determining the

amount of assessments owed, and for all other purposes relating to the marketing order.

The Committee may deny an application or terminate an exemption for a project granted hereunder whenever it determines (a) the handler has not adhered to an approved project plan, (b) the marketing of lemons in such manner is an established commercial market, or (c) the prospects of marketing the lemons commercially at a profit in the project manner are so unlikely as to not justify further exemption for the continuation therefor. The Committee shall promptly notify the handler in writing of its decision to deny such application or terminate such exemption, and the reasons thereof. The handler may thereafter request the Committee to reconsider such decision in the same manner as the denial of an application as heretofore provided.

Lemons handled after the handler has been notified that the project has been denied or terminated shall be subject to all provisions of the marketing order, the same as all other non-exempt handling of lemons.

The proposal submitted by Paul D. Cullen and Jeanne M. Forch reads as follows:

Section 910.133 Marketing Research Projects.

(a) Shrink-Wrapped Lemons

(1) Shrink-wrapped lemons are lemons individually encased in polymer film that conforms to the individual lemons by the application of heat, by stretching, or by other means.

2. The handling of shrink-wrapped lemons by individual handlers in amounts not to exceed 10 percent of the total cumulative allotments of each such handler during the 1984–85 growing season shall be exempted from regulation under 7 CFR 910.52; provided, however, that individual handlers must report to the Lemon Administrative Committee on a weekly basis giving the number of lemons shrink-wrapped during the reporting week, the total number of shrink-wrapped lemons held in inventory during the reporting week and the number of shrink-wrapped lemons that the handler proposes to ship during the following week. Proposals to ship shrink-wrapped lemons must be received by the Lemon Administrative Committee not later than noon on the Monday prior to the week during which the handler proposes to ship the shrink-wrapped lemons. Subject to approval of the Secretary, the Committee may recommend a reduction of the amount of shrink-wrapped lemons shipped in any week on a pro-rata basis among the handlers requesting exemption for such week, in order to prevent the total number of shrink-wrapped lemons shipped in commerce during any week from unduly disrupting the orderly marketing of lemons during that week.

3. On or before July 1, 1985, each handler that shipped shrink-wrapped lemons pursuant to this provision shall submit to the Lemon Administrative Committee a non-confidential report including such information as the date the exempted lemons were picked, the date they were wrapped, the length of time they were held in storage, the conditions under which they were shipped, the amount of spoilage that occurred en route and such other non-proprietary information as may be available to evaluate the impact of the shrink-wrapped process on the storage, transportation and sale of lemons.

4. Prior to the end of fiscal year 1984–85, the Lemon Administrative Committee shall meet and evaluate the experience of the industry with regard to: the advantages of shrink-wrapping in prolonging the shelf life of lemons; the effect of the technology on traditional methods of handling lemons, and; developing consumer acceptance of shrink-wrapped lemons in both new and existing channels of distribution. Growers, handlers and other interested affected parties shall have the opportunity to present information at or before such meeting, concerning the use of this exemption during the prior year and the need for continuation of the exemption during the following year. The Lemon Administrative Committee shall then forward its recommendation to the Secretary.

The proposal submitted by James A. Moody reads as follows:

Section 910.180(f) Shrink-wrapped lemons.

(1) *Definition.* Shrink-wrapped lemons are lemons individually encased in polymer film that conforms to the individual lemons by the application of heat so as to preserve the lemon beyond its normal life as a fresh fruit.

(2) The handling of shrink-wrapped lemons shall not be subject to volume or size regulation, except that the quantity handled shall be reported to the committee together with other disposition information on the weekly reports provided for in § 910.170(d).

(3) *Procedures.* Any handler desiring to handle shrink-wrapped lemons shall file a statement with the committee prior to the beginning of his marketing season containing the following information: (1) Name and address of the handler, (2) the estimated volume of shrink-wrapped lemons to be handled during the marketing season, and (3) a certification that the preparation of shrink-wrapped lemons conforms to the definition contained in § 910.180(f)(1).

Interested persons are invited to submit written comments and views on these proposals, modification of the proposals, or submit alternate or additional proposals. Comments or proposals should be received by November 5, 1984.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: October 11, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-27280 Filed 10-12-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1030

[Docket No. AO-361-A22]

Milk in The Chicago Regional Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposal by three cooperative associations to amend the Chicago Regional milk order on an emergency basis.

The proposal would require reserve supply plants to make minimum shipments to milk bottling plants through February 1985. The proponents contend that the operators of bottling plants are not receiving all of the milk they are ordering because reserve supply plants are not required to ship any milk. Proponents have indicated that they will ask for emergency consideration of these issues at the hearing.

DATE: The hearing will convene at 9:30 a.m. on October 18, 1984.

ADDRESS: The hearing will be held at the Arlington Park Hilton, 3400 Euclid Avenue, Arlington Heights, Illinois 60006, (312) 394–2000.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Diary Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Arlington Park Hilton, 3400 Euclid Avenue, Arlington Heights, Illinois 60006, beginning at 9:30 a.m., on October 18, 1984, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposal No. 1.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act (Pub. L. 96–354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proponents requested that an emergency hearing be held with three days' minimum notice as provided by the statute. Since proponents have indicated that an emergency situation exists in the market, in that shipments of milk to fluid milk handlers do not meet demand, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, milk, Dairy Products.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Associated Milk Producers, Inc., Consolidated Badger Cooperative, and Wisconsin Dairies Cooperative:

Proposal No. 1

1. At the end of § 1030.7(c)(1), add the following:

"* * * except that through the month of February 1985, reserve supply plants must ship to and physically unload into distributing plants defined under paragraph (a) of this section the greater of either five percent of the plant's Grade A receipts pooled for the month or four tanker loads of milk each month from each reserve supply plant. The shipping requirements of this paragraph temporarily applicable through the month of February 1985 for pool reserve supply plants may be increased or decreased by five percentage points by the Director of the Dairy Division if the Director finds a revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding, the Director shall investigate the need for revision, either through his own initiative or at the request of interested parties and, if his investigation shows that a revision might be appropriate, he shall issue a notice stating that a revision is being considered, inviting submission of data, views, and arguments. For the purpose of meeting the requirements applicable through February 1985, handlers may form units of reserve supply plants as follows:

(i) Two or more reserve supply plants may form a unit for the purpose of meeting the requirements of this paragraph if the following conditions are met:

(*a*) The reserve supply plants are located in the area specified for reserve supply plants as specified under § 1030.6(b); and

(*b*) Reserve supply plants included in a unit must be fully owned and operated by the handler establishing such unit and such plants were pool plants during the month prior to being included in a unit."

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Myron R. McKinley, 800 Roosevelt Road, Building A, Suit 200, Glen Ellyn, Illinois 60137, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agriculture Marketing Service
Office of the General Counsel
Diary Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Chicago Regional Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C., on October 11, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84–27337 Filed 10–12–84; 9:41 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. CE–2, Notice No. 23–ACE–10]

Special Conditions; Soloy Conversions, Ltd., Modified Cessna Model 207 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions.

SUMMARY: This notice proposes special conditions as a part of the type

certification basis for the supplemental type certification of Soloy Conversions, Ltd. turbine-powered Cessna Models 207, T207, 207A, and T207A airplanes. These airplanes will have novel and unusual design features with regard to the propulsion system in a single engine airplane for which the applicable airworthiness standards of Part 23 of the Federal Aviation Regulations (FAR) do not contain adequate or appropriate safety standards. This notice contains the safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided in the regulations for single, reciprocating, engine-powered airplanes.

DATE: Comments must be received on or before November 14, 1984.

ADDRESSES: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. CE-2, Room 1558, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE-2. Comments may be inspected in the Rules Docket file between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further action on this proposal. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice, must submit with those comments a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE-2." The postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date in the Rules Docket file for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking activity will be filed in the docket.

Type Certification Basis

The type certification basis for the Soloy Conversions Ltd., turbine-powered Cessna Model 207 Series airplanes is as follows: Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965 through Amendment 23-6, effective August 1, 1967; Amendment 23-7, §§ 23.937, 23.955, 23.1041, 23.1045, 23.1091, 23.1155, 23.1505, and 23.1527, effective September 14, 1969; Amendment 23-14, §§ 23.173, 23.201, 23.929, and 23.1027, effective December 20, 1973; Amendment 23-15, §§ 23.951, 23.997, 23.1013, 23.1015, and 23.1019, effective October 31, 1974; Amendment 23-16, § 23.335, effective February 14, 1975; Amendment 23-17 §§ 23.175, 23.933, 23.977, 23.1111, 23.1143, 23.1165, and 23.1549, effective February 1, 1977; Amendment 23-18, §§ 23.901, 23.939, 23.943, 23.1093, 23.1121, 23.1141, and 23.1145, effective May 2, 1977; Amendment 23-21, §§ 23.45, 23.49, 23.65, 23.75(d), 23.77, 23.1043, and 23.1521, effective March 1, 1978; Amendment 23-23, §§ 23.629(f), 23.1545, and 23.1557, effective December 1, 1978; Amendment 23-26, §§ 23.253, 23.361, 23.371, 23.903, 23.905, 23.991, 23,1305, and 23.1529, effective October 14, 1980; Part 36 of the FAR, effective December 1, 1969, through Amendment 36-12; Special Federal Aviation Regulation (SFAR) No. 27, effective February 1, 1974, through Amendment 27-2, and any Special Conditions adopted as a result of this notice.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are issued after public notice in accordance with §§ 11.28 and 11.29(b) of the FAR, effective October 14, 1980, and will become part of the type certification basis, when adopted, in accordance with § 21.17(a) of the FAR.

Background

On September 15, 1983, Soloy Conversions, Ltd., 450 Pat Kennedy Way SW., Olympia, Washington 98502, submitted an application for Supplemental Type Certification of turbine-powered Cessna Model 207 Series airplanes which are single-engine, unpressurized, 7-place, highwing monoplanes. The existing propulsion system is a single, 284-continous-horsepower, reciprocating engine. The airplane's maximum gross takeoff weight is 3800 pounds.

The modification, which is referred to as a Soloy Turbine Pac, includes all items forward of the firewall (powerplant assembly, propeller, and cowling) as well as the necessary airplane changes associated with installing a turbine engine as a replacement for a reciprocating engine (fuel system, cabin heat, and electrical). The new propulsion system consists of a turbine engine, a reduction gear box, a driveshaft with flexible couplings connecting the engine and gear box together, and the structure needed to support these components and connect the assembly to existing engine firewall attach points. This arrangement is similar to installations in turbine-powered helicopters where flight loads are transmitted to the main rotor gear-box rather than engine thrust bearings.

The Allison 250-C20S engine used in the Soloy Turbine Pac is rated at 418-shaft-horsepower (SHP) for takeoff and 400-SHP for maximum continuous power. This represents a 40 percent increase in power over the reciprocating engine installation. These power ratings will be available for use as long as the airplane operating limits are not exceeded. The existing airplane operating limits remain unchanged and V_{MO} will be established as equal tothe existing V_{NO}.

This modification of the Cessna Model 207 airplane, which installs a turbine engine substantially forward of the original reciprocating engine location, constitutes a novel or unusual design feature for an airplane type certificated to the airworthiness standards incorporated by reference in the Cessna Model 207 series type certificate, Type Certificate No. A16CE, or under the applicable airworthiness requirements in effect on the date of application for the Supplemental Type Certificate. In 1969 the flutter requirements of § 23.629 of the FAR were revised to include airworthiness standards for turbopropeller engine installations on small multiengine airplanes. Turbopropeller engine installations, being greater in length than reciprocating engine installations, are more critical with regard to mount flexibility. Forward displacement of the propeller, in conjunction with the high rotational speed of the turbine engine

and engine mount flexibility, may result in significant aerodynamic and elastic inertia forces and cause dynamic instabilities which can adversely affect airplane whirl-flutter stability. Turbine engine installations on signle engine airplanes were not envisioned when § 23.629 of the FAR was amended to include a dynamic evaluation of engine-propeller-engine-mount stiffness and damping variations in multiengine airplanes. The mount flexibility in the modified Cessna Model 207 Series appears to be of the same order of magnitude as that on multiengine airplanes with wing mounted engines. Thus, the FAA is of the opinion that these factors and their effect on the structural integrity of the engine mount and airframe should be evaluated with regard to the proposed modification of the Cessna Model 207 Series airplanes.

List of Subjects in 14 CFR Part 21

Aviation safety, Aircraft, Air transportation, and Safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the Soloy Conversions, Ltd., modified Cessna Model 207, T207, 207A, and T207A airplanes, as modified by installation of the Soloy Turbine Pac and a Hartzel three-blade propeller.

Dynamic Evaluation, Engine Installation

In addition to the requirements in § 23.629 of the FAR, the dynamic evaluation of the airplane must include:

1. Whirl mode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial, and aerodynamic forces, and

2. Engine-propeller-engine-mount stiffness and damping variations appropriate to the particular configuration.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983); and §§ 11.28 and 11.29(b) of the Fedeal Aviation Regulations (14 CFR 11.28 and 11.29))

Issued in Kansas City, Missouri on September 28, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-27133 Filed 10-12-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 23

[Docket No. 24191; Notice No. 84-12A]

Standardization of Cockpit Controls for Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of Comment Period.

SUMMARY: This notice extends the comment period for Notice 84-12 (49 FR 32300, August 13, 1984). Notice 84-12 proposed to amend Part 23 of the Federal Aviation Regulations (FAR) to require standardization of cockpit controls including aerodynamic, powerplant, fuel system, and auxiliary controls.

By letter dated September 17, 1984, the General Aviation Manufacturers Association (GAMA) requested an extension of the comment period on Notice 84-12 from October 12, 1984, to November 12, 1984. GAMA cited the Small Airplane Airworthiness Review Conference scheduled for October 22 to 26, 1984 as a supporting reason for the extension of the comment period. The FAA has determined that extension of the comment period would be in the public interest.

DATE: Comments on Notice 84-12 must be received on or before November 12, 1984.

ADDRESSES: Comments on Notice 84-12 may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24191, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked Docket No. 24191. Comments may be inspected in Room 916 between 8:30 a.m. and 5:00 p.m. on weekdays, except on Federal holidays. In addition, the FAA is maintaining an information docket of comments in the Office of Regional Counsel (ACE-7), FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the information docket may be inspected in the Office of Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John H. Griffith, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specied above will be considered by the Administrator before taking further rulemaking action. Commenters wishing the FAA to acknowledge receipt of comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24191." The postcard will be date stamped and returned to the commenter. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice and Notice 84-12 by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center (APA-430), 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The National Transportation Safety Board (NTSB) has issued several safety recommendations on standardization of cockpit controls. GAMA indicated that they supported these recommendations and proposed revisions to §§ 23.777 through 23.781 of the FAR to standardize cockpit controls.

On August 13, 1984, the FAA issued Notice 84-12 [49 FR 32300]. This notice proposed standization of cockpit controls for all small airplanes, including aerodynamic, powerplant, fuel system, and auxiliary controls.

GAMA has requested an extension of the comment period to permit discussions on proposals they submitted for the Small Airplane Airworthiness

Review that are described as closely related but wider in scope. GAMA contends that public comments at the Review Conference to these items would be very useful to all commenters interested in evaluating Notice 84–12. The FAA agrees that discussions at the Conference may give commenters the opportunity to submit more comprehensive comments to the docket on Notice 84–12.

Extension of Comment Period

In consideration of the GAMA request, the FAA concludes that extending the comment period for an additional 30 days would be in the public interest. Accordingly, the comment period for Notice 84–12 is hereby extended to November 12, 1984.

Conclusion

This document extends the comment period on a notice of proposed rulemaking. Therefore, I certify that this document is not a major rule under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); and 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983))

Issued in Kansas City, Missouri on October 2, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84–27136 Filed 10–12–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–ANM–21]

Proposed Establishment of Transition Area, Hailey, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area at Hailey, Idaho. The intended effect of the proposed action is to provide controlled airspace from 1,200 feet above the surface for aircraft executing a new instrument approach procedure to Friedman Memorial Airport, Hailey, Idaho.

DATES: Comments must be received on or before December 14, 1984.

ADDRESSES: Send comments to: Manager Airspace & Procedures Branch, ANM–530, Federal Aviation Administration, Docket No. 84–ANM–21, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel Office at the above address.

Also, an informal docket may also be examined during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT:

Kathy Paul, Airspace Technician, ANM–535, (206) 431–2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ANM–21." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, WA 98168, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & Procedures Branch, at the address previously listed. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which described the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Section 71.181 of Part 71 of the Federal Aviation Adminstration Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas/Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Hailey, Idaho (new)

"That airspace extending from 1,200 feet above the surface from 43°36'00" N/114°27'00" W, thence eastbound to 43°36'00" N/114°00'00" W, thence southbound to 43°17'30" W, thence westbound to 43°17'30" N/114°27'00", thence northbound to the point of beginning; and excluding that airspace overlying V–231 on the east side and V–500 on the south side of the area."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1.354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Seattle, Washington, on October 5, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84–27134 Filed 10–12–84; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-21387; File No. S7-27-84]

Extension of Comment Period for Concept Release Concerning Possible Legislation To Improve the Commission's Ability To Investigate and Prosecute Persons Who Purchase or Sell Securities in the U.S. Markets From Other Countries

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The SEC is extending the period for comments concerning the possible legislation to improve the Commission's ability to investigate and prosecute persons who purchase or sell securities in the U.S. markets from other countries. The comment period concerning the waiver by conduct concept is extended until December 1, 1984.

DATE: Comments are due on or before December 1, 1984.

ADDRESS: Persons wishing to submit comments should file three copies with Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, Washington D.C. 20549. All comments should refer to File No. S7-27-84 and will be available for public inspection and copying at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: John M. Fedders (202) 272-2900, Frederick B. Wade (202) 272-2214, or Michael D. Mann (202) 272-2315, or write the Office of Chief Counsel, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On July 30, 1984, the Commission issued a concept release requesting comments on a legislative proposal to address problems it encounters in investigations and enforcement actions involving persons who purchase or sell securities in the U.S. markets from foreign countries, particularly when such transactions are effected through institutions and nations with secrecy laws [Securities Exchange Act Release No. 21186; File No. S7-27-84]. Comments were required to be received on or before November 1, 1984.

The Commission has determined that a 30 days extention of time for comments to be received on the "waiver by conduct" concept is warranted and hereby extends such comment period until December 1, 1984.

On December 1, 1984 the Commission staff will process to analyze the written comments received and thereafter propose action to the Commission.

List of Subjects in

18 CFR Part 240

Securities.

Dated: October 9, 1984.

By the Commission.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27132 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 84N-0239]

Open Meeting; Public Discussion on Draft Guideline for Veterinary Prescriptions and Other Orders; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period on draft guideline.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on the draft guideline for the dispensing of prescription veterinary drugs. FDA has received a request to extend the comment period and is granting an additional 90 days for comment.

DATE: Comments by December 31, 1984.

ADDRESS: Written comments should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gary Dykstra, Center for Veterinary Medicine (HFC-201), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3400.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1984 (49 FR 30076), FDA published the "Draft Guideline for the Dispensing of Prescription Veterinary Drugs" and announced an open meeting to be held August 22, 1984, at which interested persons could discuss the draft guideline. The notice also provided for the submission of written comments by September 30, 1984.

Animal Health Institute (AHI) has requested that FDA extend the comment period for 90 days. AHI wants to discuss the draft guideline with member companies and develop substantive comments to submit to FDA.

After carefully evaluating the request, FDA has concluded that an extension of 90 days is appropriate to provide adequate time to prepare responses to the notice. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested persons have a fair amount of time for comment. Therefore, FDA has concluded that the comment period should be extended until December 31, 1984.

Interested persons may, on or before December 31, 1984, submit to the Dockets Management Branch (address above) written comments regarding the draft guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m, Monday through Friday.

Dated: October 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-27102 Filed 10-12-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-84-1206; FR-1742]

Mutual Mortgage Insurance and Rehabilitation Loans; Expanding Eligibility of Mortgages Involving a Dwelling Unit in a Cooperative Housing Development

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would permit units in cooperative housing developments not covered by an FHA-insured blanket mortgage to qualify for mortgage insurance if construction on the project was completed at least one year before application for unit mortgage insurance. This rule would also remove requirements for certain waivers of the rights by cooperative housing

corporations in connection with FHA-insured mortgages involving cooperative units and the requirement limiting the term of a cooperative unit mortgage to the remaining term of the blanket mortgage on the cooperative development, and would make other miscellaneous changes.

DATE: Comment due by December 14, 1984.

ADDRESS: Interested persons are invited to send written comments to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Persons submitting comments should include their names and addresses and refer to the docket number and title indicated in the heading of this rule. All comments submitted will be available for public inspection in the Office of the Rules Docket Clerk at the above address, during business hours.

FOR FURTHER INFORMATION CONTACT: Brian Chappelle, Acting Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone: (202) 755–6720 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The following is a summary and explanation of the proposed amendments.

Section 203(n) of the National Housing Act authorizes the Secretary to insure mortgages involving dwelling units in cooperative housing projects. Before enactment of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98–181, approved November 30, 1983) (the 1983 Act), this authority was limited to units in projects with blanket mortgages insured under the National Housing Act. Section 419 of the 1983 Act amended Section 203(n) to permit the Secretary to insure mortgages on units in a cooperative which does not have an FHA-insured blanket mortgage, where construction of the project was completed at least one year before the application for unit mortgage insurance. The regulations governing eligibility of cooperative units for mortgage insurance are contained in 24 CFR 203.43c.

Nonprofit Corporation

Before the 1983 Act, section 203(n) limited FHA insurance to unit mortgages in nonprofit cooperative corporations. Section 419(2) of the 1983 Act amended section 203(n) to permit the insurance of unit mortgages in for-profit cooperative corporations. No changes are needed in the regulations to implement this change.

Definition/Mortgage Requirements

The definition section would be reorganized to place terms in alphabetical order. The definition of "Coporation" in § 203.43c(b)(2) would be amended to include a cooperative housing development not covered by an FHA-insured blanket mortgage where construction on the project has been completed for at least one year. This amendment implements section 419(1) of the 1983 Act. A conforming amendment would also be made to § 203.43c(f).

A new definition of "Fair Market Value" would be included, based on current HUD practice for Secretary-owned single family properties. Fair Market Value would be the amount a HUD-approved appraisor determines a property to be worth based on sales prices for comparable properties.

A new definition of "Financially Capable Buyer" would be included as a purchaser able to qualify for mortgage insurance, whether or not mortgage insurance is sought.

Organizational Documents

Section 203.43c(c) currently contains six required items which must be included in the cooperative's organizational documents relating to the Secretary's rights to participate in the cooperative corporation and responsibilities owed the corporation on a Secretary-owned Corporate Certificate relating to a unit (i.e., stock, membership certificates or other instruments evidencing ownership of a specified interest in the cooperative corporation). Paragraph (c)(1) requires the Secretary or mortgagee to be a member of the cooperative as long as either owns a Corporate Certificate. Paragraph (c)(2) requires that the insured mortgage be a first lien on the property. Paragraphs (c)(3) and (4) state that the Secretary may vote his or her interest with respect to Secretary-owned Certificates at corporation meetings or nominate a proxy to do so. Paragraph (c)(5) permits the Secretary to stop making payments attributable to a Secretary-owned Certificate for a unit six months after notifying the corporation to sell the unit's Corporate Certificate or upon default in the project's blanket mortgage. Paragraph (c)(6) states that neither the Secretary nor a mortgagee is responsible for amounts due the corporation by a mortgagor before the Secretary or mortgagee becomes the owner of the Certificate.

Because the 1983 Act expands eligibility for unit mortgage insurance to projects without insured blanket mortgages, a new paragraph (7) at the end of paragraph (c) would be added to permit an existing cooperative's organizational documents to meet these requirements without amendment where: (1) The organizational documents do not prohibit the Secretary or mortgagee from exercising rights under paragraph s (c)(1), (3) and (4); and (2) the organization signs an agreement with the Secretary which states that the requirements of paragraphs (c)(2), (5) and (6) shall apply to the cooperative and that they supersede any contrary provision in the organizational documents. Only one such agreement need be signed with respect to any project.

Finally § 203.43c(c)(4) would be revised to eliminate a gender-specific reference.

Financial Statement

The § 203.43c(d)(1) requirement for filing a financial statement would be expanded for the insurance of mortgages on units in projects which do not have an FHA-insured blanket mortgage. The Department receives information concerning such items as the operating budget, reserves and occupancy rates for projects with FHA-insured blanket mortgages, but not for other projects. This information enables the Department to assess the potential risk of loss from insuring mortgages in individual units.

Rights of the Corporation

Section 203.43c currently has two requirements which, in HUD's view, adversely affect the success of the section 203(n) program and are thwarting the intent of the legislation. The first is the requirement in § 203.43c(d)(2) that the corporation must waive any option or right of first refusal it may have to purchase any Corporate Certificate covered by a mortgage insured under section 203(n) unless the corporation pays the full amount due under the mortgage or pays the full amount of the Secretary's investment if the Secretary is the owner of the Corporate Certificate, whichever is greater. Purchase of the mortgage would usually require the corporation to assess stockholders or members for this purpose. This increases the risk not only on any other FHA-insured unit mortgages in the cooperative but also on any FHA-insured blanket mortgage, since any additional demands on the mortgagors' incomes would reduce their ability to meet mortgage payments. This requirement also serves to discourage cooperatives with FHA-insured blanket mortgages from making FHA insurance

available for share or membership purchases.

The present language of § 203.43c(d)(3) requires that (except as approved by HUD) the corporation waive all authority it may have to approve or reject the buyer of a Corporate Certificate owned by the Secretary or the buyer of a Corporate Certificate covered by a mortgage insured under section 203(n). While the Secretary may waive this requirement, consideration of whether to grant a waiver is staff-intensive, delays mortgage processing and is unduly burdensome for the corporation. If not waived, this provision denies the corporation the option of reviewing the creditworthiness of the prospective buyer or the ability of a buyer to meet the responsibilities of owning stock in the cooperative.

The proposed rule would amend and consolidate § 203.43c (d)(2) and (d)(3) to restrict any rights a cooperative corporation may have to exercise any option to purchase, and, in addition, any right of first refusal to purchase, any Corporate Certificate owned by the Secretary, or to reject a financially capable buyer proposed by the Secretary. The proposed rule would also permit the corporation to designate a buyer to exercise its rights in the case of a Secretary-owned Corporate Certificate. These modifications are intended to address the problems hampering full participation in the cooperative insurance program.

As a condition of exercising an option to purchase or a right of first refusal to purchase or to reject a financially capable buyer of a Secretary-owned Corporate Certificate, the corporation must pay the fair market value of the property or if the Secretary has proposed a purchaser, the amount the purchaser is willing to pay. As a further condition of exercising such rights, a corporate officer must certify at the time of commitment that these rights will: (1) Be exercised and closing consummated within 30 days after notice of the availability of such Certificates or of a prospective purchaser, as appropriate and (2) not be exercised for the purpose of unlawful discrimination.

While the current rule imposes restrictions on the cooperative corporation's exercise of these rights from the time of commitment, this rule would impose limits on the cooperative's powers only where the mortgage is foreclosed and title conveyed to the Secretary. Thus, for example, in any instance where the Secretary has proposed a financially capable buyer willing to purchase, the corporation may not reject that buyer until it has purchased the Secretary's interest in the unit at the agreed price to that buyer. This is necessary protection to the Secretary who would otherwise be required to maintain the property at taxpayer expense until a buyer satisfactory to the corporation were located. (The right to reject a purchaser includes, of course, the corresponding right to approve.) The cooperative corporation is free, therefore, to exercise its rights over a Certificate with an FHA-insured mortgage to the same extent as it exercises over other Certificates until title to the Certificate is transferred to the Secretary.

The proposed rule, therefore, attempts to strike a balance between: (1) The need of the corporation to assure the financial stability of the cooperative through review of the purchaser's ability to afford common expenses; and (2) the Secretary's responsibility to limit losses to the insurance fund by disposing of acquired Certificates as quickly as possible.

Proposed paragraph (d)(3) would require the agreement between the Secretary and the cooperative to state that, where an option to purchase or right of first refusal to purchase or right to reject a buyer of a Secretary-owned Certificate is not exercised and closing consummated within 30 days after notice by the Secretary of the availability of the Certificate or identity of a prospective purchaser, the right to purchase or right of first refusal to purchase or reject the buyer will lapse. The addition of these requirements insures that the cooperative corporation may not disrupt any transfer or sale by failing to act promptly or responsibly.

Comments are invited on the suitability of these provisions for limited equity cooperatives.

Finally, § 203.43c (d)(4) and (i) would be revised to eliminate a gender-specific reference.

Term of Mortgage

The rule also proposes to modify the limitation on the term of the individual mortgage. Section 203.43c(h)(4) now states that any mortgage insured under section 203(n) must be for a term not to exceed 30 years, or the remaining term of the blanket mortgage covering the cooperative development, or three-quarters of the remaining economic life of the building improvements, whichever is the least. The provision limiting the term of the mortgage to the remaining term of the blanket mortgage or to three-quarters of the remaining economic life of the building improvements, whichever is shorter, is unduly restrictive and does not serve to protect the security either of the blanket mortgage or of any other HUD-insured unit mortgages in the cooperative.

While the statute provides that an insured unit mortgage may be in a project having an insured blanket mortgage, there is no requirement that the term of the blanket mortgage match or exceed the mortgage term for the individual unit's mortgage. There is also no statutory requirement to limit mortgage maturity to three-quarters of the remaining economic life of the improvements. The present limitations on the term of the unit mortgage weaken the security of the blanket mortgage in cooperatives having a shorter mortgage term. The higher mortgage payments on the shorter term loan put purchase beyond the reach of many potential buyers. The proposed rule would remove this limitation, whether or not there is a blanket mortgage, but retain the same limits on mortgage term as are generally used in section 203(b): a term not to exceed 30 years.

Documents to Accompany Application

Section 203.43c(l) would contain several technical, clarifying amendments and one new substantive requirement. Present paragraph (l) would be redesignated as paragraph (l)(1). The current requirement in paragraph (l) to forward a copy of the corporation's regulatory agreement would be amended to cover only projects with HUD-insured blanket mortgages and would become paragraph (l)(1)(ii). A regulatory agreement is not required for conventionally financed projects.

The provision authorizing the Secretary to waive the document submission requirements would be modified to provide that the documents need not be submitted if the Secretary has previously approved them and the application so states, indicating the date of approval. This would avoid the necessity for a case-by-case approval. If the cooperative corporation were to modify any of the documents after their earlier approval, resubmission and approval would be required.

A new paragraph (l)(2) would be added to require the lender to submit a certified statement from a registered professional architect or engineer describing the present condition of all structural and mechanical components of a project without an FHA-insured blanket mortgage. The statement would not be required for projects with FHA-insured blanket mortgages since HUD inspects these projects annually. Since the Department may now insure unit mortgages in a project which does not have an FHA-insured blanket mortgage

(including conversions to cooperative developments), the Department believes that such an evaluation should be performed to minimize risk to the insurance funds.

Assignment

Section 203.437(f) would be amended to make mandatory the acceptance of the assignment of mortgages insured under section 203(n) if the FHA-insured blanket mortgage is in default and foreclosure has been completed and the property conveyed to the Secretary. The current rule permits the Secretary to accept assignment, if it is in the Department's interest, where the blanket mortgage is in default and the mortgagee has announced an intention to foreclose. This rule is ambiguous and difficult for lenders and HUD to apply. In order to assure lenders of what circumstances would trigger assignment, the rule would eliminate Secretarial discretion and provide for assignment whenever foreclosure of the FHA-insured blanket mortgage has been completed and the property conveyed to the Secretary.

The Department would not accept assignment of an insured unit mortgage in the event of foreclosure on a blanket mortgage which is not FHA-insured. As the insurer of a blanket mortgage, HUD is authorized to assume ownership and control of the cooperative's assets. For non-FHA-insured projects, HUD would have no such authority. Given this lack of authority to protect the Secretary's interest, the Department believes it would be contrary to the public interest to accept such assignments.

Findings

This proposed rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the above address.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities because it merely expands the type of cooperative unit mortgages eligible for HUD insurance to include units in non-HUD-insured projects and makes the overall program more feasible.

This rule was listed under the Office of Housing at 49 FR 15913 (Item No. 40) in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15918), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.163—Mortgage Insurance—Cooperative Financing (203(n)).

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs—Housing and community development, Mortgage insurance, Solar energy.

The collection of information requirement contained in this rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirement(s) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD.

Accordingly, HUD proposes to amend 24 CFR Part 203 as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. Section 203.43c is proposed to be amended by adding a new paragraph (c)(7) and by revising paragraphs (b), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (f), (h)(4), (i), and (l) as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(b)(1) As used in this section and § 203.437:

(i) "Corporate Certificate" shall mean such stock certificates, membership certificates, or other instruments which the laws of the jurisdiction in which the cooperative housing development is located require to evidence ownership of a specified interest in the corporation.

(ii) "Corporation" shall mean an organization which holds title to:

(A) A cooperative housing development which is covered by a blanket mortgage or mortgages insured by FHA under the National Housing Act, or

(B) A cooperative housing development the construction of which has been completed at least one year before the application for mortgage insurance.

(iii) "Fair Market Value" shall mean the amount an appraiser designated by HUD determines a property to be worth based on sales prices for comparable properties.

(iv) "Financially Capable Buyer" shall mean a buyer able to qualify for mortgage insurance, whether or not mortgage insurance is sought.

(v) "Mortgage" shall mean a first lien given to secure a loan made to finance the purchase of a Corporate Certificate together with the applicable Occupancy Certificate of a cooperative ownership housing corporation in which the permanent occupancy of the dwelling units is restricted to members of such corporation.

(vi) "Occupancy Certificate" shall mean a written instrument provided by the corporation to each holder of a Corporate Certificate which grants an exclusive right of possession of a specific dwelling unit in the cooperative housing development.

(2) References in this subpart to a dwelling, residence or property which is sold, conveyed, covered by a mortgage or subject to a lien shall be construed to mean the Corporate Certificate together with the Occupancy Certificate, except that where such references when interpreted in light of section 203(n) of the National Housing Act clearly indicate the intent to be the dwelling unit, such reference shall mean the dwelling unit identified in the Occupancy Certificate.

* * * * *

(C) * * *

(4) The Secretary may designate as a proxy an agent for the purpose of exercising the voting rights of the Secretary which are attributable to the Corporate Certificate or Certificates owned by the Secretary;

* * * * *

(7) The organizational documents of an existing cooperative corporation which is not covered by an FHA-insured blanket mortgage shall be considered to meet the requirements of paragraphs (c)(1), (3), and (4) of this section if the documents do not prohibit the Secretary or mortgagee, as appropriate, from

exercising the rights specified in those paragraphs. For these documents to meet the requirements of paragraphs (c)(2), (5), and (6) of this section, the cooperative corporation must execute an agreement with the Secretary stipulating that these requirements apply to the cooperative corporation and that they supersede any provision to the contrary in the organizational documents.

* * * * *

(D) * * *

(1) Requires that the corporation shall furnish the Secretary with the most recent annual financial report certified to have been based on generally accepted accounting principles and the most recent monthly or quarterly financial report. For projects which do not have an FHA-insured blanket mortgage, the report shall include a description of the operating budget, the replacement and operating reserve account, the type and term of the blanket mortgage, the corporation's eligibility status under section 216 of the Internal Revenue Code, and the current occupancy/vacancy status of the project.

(2) Restrict any rights the corporation (or a purchaser designated or approved by it) may have to exercise any option to purchase, and, in addition, any right of first refusal to purchase, any Corporate Certificate owned by the Secretary, or to reject a financially capable buyer proposed by the Secretary to those situations where:

(i) The corporation (or a purchaser designated or approved by it) pays the fair market value of the Certificate or if the Secretary has proposed a purchaser, the amount the purchaser has agreed to pay; and

(ii) A corporate officer certifies, at the time of application for insurance commitment for a section 203(n) mortgage, that any option or right of first refusal to purchase a Corporate Certificate or right to reject a buyer held by the corporation or other party designated by the corporation to exercise its rights:

(A) Will be exercised and closing consummated within 30 days after notice by HUD to the corporation of availability of the Certificate or of a prospective financially capable buyer; and

(B) Will not be exercised for purposes of unlawful discrimination.

(3) Provides that any option to purchase or right of first refusal to purchase a Certificate or right to reject a prospective buyer the corporation may have with respect to Secretary-owned Corporate Certificates under paragraph (d)(2) will lapse if not exercised and closing consummated within 30 days after notice by HUD of the availability of the Corporate Certificate or of a prospective finanaially capable buyer.

(4) Requires the corporation on notice by HUD to act as the Secretary's agent for a fee to be determined by HUD for the limited purposes of:

(i) Selling all Corporate Certificates of the corporation owned by the Secretary;

(ii) Renting and collecting rents on any dwelling unit for which the Secretary owns the Corporate Certificate.

* * * * * *

(f) The mortgage involves a one-family dwelling unit in a cooperative housing development which is covered by a blanket mortgage or mortgages insured under the National Housing Act, or a cooperative housing development the construction of which has been completed at least one year before the application for mortgage insurance.

* * * * *

(h) * * *

(4) Be for a term not to exceed 30 years.

* * * * *

(i) The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his or her creditors for the mortgagor's account and with the mortgagor's consent.

* * * * *

(l)(1) The mortgagee shall, upon application for a mortgage insurance commitment, provide true copies of the following organizational documents of the cooperative corporation for examination and approval by the appropriate HUD Field Office:

(i) Certificate of Incorporation;

(ii) Regulatory Agreement, in the case of cooperative housing developments with a blanket mortgage or mortgages insured by FHA;

(iii) By-Laws, as amended;

(iv) The financial statements required in paragraph (d)(1) of this section;

(v) Proposed Occupancy Certificate;

(vi) Proposed Corporation Certificate;

Provided that one or more of the documents required by this paragraph need not be submitted if the documents have been approved by the Secretary and the application so states, indicating the date of approval.

(2) For projects which do not have an FHA-insured blanket mortgage, the mortgagee shall submit, along with the items listed in paragraph (l)(1) of this section, a certified statement from a registered professional architect or engineer describing the present condition of all structural and mechanical components of the project. The statement must describe: (i) The structural integrity of the project and the condition and remaining useful life of the major project components—such as heating and cooling systems, plumbing, electrical systems, elevators, boilers, and roofs; (ii) the average estimated yearly cost of repairs or replacement of such systems over the next 10 years; and (iii) the schedule of improvements in the case of a conversion to a cooperative project. Any such statement submitted by the mortgagee shall be valid for three years for any application for mortgage insurance or any other Corporate Certificates in connection with the same project. However, the mortgagee shall notify the Secretary at the time application for mortgage insurance of any defects or other factors related to the statement of which the mortgagee has become aware since the most recent certified statement.

2. In § 203.437 paragraph (f) is proposed to be revised as follows:

§ 203.437 Mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(f) In addition to any other obligations of the Secretary to accept assignment of a mortgage, the Secretary will accept assignment of insured unit mortgages under this part where the FHA-insured blanket mortgage on the project is in default and foreclosure has been completed.

Authority: Secs. 203 and 211 of the National Housing Act (12 U.S.C. 1709, 1715d); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Date: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-27145 Filed 10-12-84; 8:45 am]

BILLING CODE 4210-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket Nos. 78-72 and 80-286]

MTS and WATS Market Structure; and Amendment of the Commission's Rules and Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Order changing date for completion of Joint Board recommendations.

SUMMARY: The Commission is changing the date for completion of Joint Board recommendations on end user access

charge issues from November 15 to November 30, 1984. This is being done to allow more time for consideration of supplemental filings on these and other related issues. This will facilitate the Commission's decision-making process.

DATE: The Joint Board is to submit its recommendations concerning end user access charge issues to the Commission by November 30, 1984.

ADDRESSES: Federal Comunications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Claudia Pabo or William Kirsch of the Common Carrier Bureau at (202) 632–6363.

Order

In the matter of MTS and WATS market structure (CC Docket No. 78–72) and amendment of Part 67 of the Commission's Rules and establishment of a Joint Board (CC Docket No. 80–286).

Adopted: September 28, 1984.
Released: October 2, 1984.

By the Chief, Common Carrier Bureau.

1. In its March 30, 1984 *Further Notice of Proposed Rulemaking* in this proceeding, the Commission requested comments on: (1) subscriber line charges for residential and single line business subscribers; (2) the transition mechanism for implementing subscriber line charges for these subscribers; (3) a life-line exemption or other assistance for low income subscribers; and (4) additional assistance for small telephone companies. At the same time, the Commission asked the existing Joint Board in CC Docket No. 80–286 to prepare recommendations concerning these issues. In order to allow Commission action on these issues in December 1984, the Commission asked the Joint Board to complete its recommendations no later than November 15, 1984. [1] *MTS and WATS Market Structure*, CC Docket No. 78–72; *Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80–286, 49 FR 18318, at paras. 1–7, (April 30, 1984).

2. In light of recent decisions to supplement the record on these issues and related matters, we believe that the Commission's decision-making processes would be facilitated by a change in the date for Joint Board action to November 30, 1984. This will allow an opportunity for more complete consideration of: (1) Comments on the letter from the National Association of Regulatory Utility Commissioners providing further details concerning the St. Louis resolution (a proposal for unified access charge tariffs filed with the state commissions subject to federal guidelines); [2] and (2) comments on the materials previously filed with the Commission concerning bypass of the local exchange. [3]

3. According, it is ordered, That the Joint Board shall submit its recommendations concerning end user access charge issues to the Commission no later than November 30, 1984. [4]

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84–27159 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

[1] The Commission stated that if it did not receive input from the Joint Board by November 15, 1984, it would have to proceed without the benefit of the Joint Board's views in order to comply with the previously announced schedule for action in CC Docket No. 78–72.

[2] Public Notice, "Commission Seeks Comments on National Association of Regulatory Utility Commissioners (NARUC) Response to Common Carrier Bureau Questions on the St. Louis Resolution," September 19, 1984.

[3] Public Notice, "Request for Comments on Bypass Studies," September 21, 1984.

[4] This action is taken pursuant to sections 4(i) & (j), 221(c) and 410 of the Communications Act, 47 U.S.C. 154(i) & (j) 21(c) and 410 as amended. Authority to take this action is delegated to the Chief, Common Carrier Bureau by §§ 0.91 and 0.291(h) of the Commission's Rules, 47 CFR 0.91 & 0.291(h).

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47 CFR Part 81

[PR Docket No. 84–938; FCC 84–468]

Maritime Accounting Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes rule amendments concerning accounting procedures for public coast stations in the Maritime Services. The purpose of this proposal is to implement internaional accounting requirements in the rules. The effect of the proposed amendments is to establish internationally recongnized accounting procedures in the United States.

DATES: Comments must be received on or before November 13, 1984 and reply comments must be received on or before November 28, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Telegraph, Telephone.

Notice of Proposed Rulemaking

In the matter of maritime accounting procedures (PR Docket No. 84–938).

Adopted: September 28, 1984.
Released: October 4, 1984.

By the Commission.

1. The 1979 World Administrative Radio Conference (79 WARC) changed the procedures governing accounting practices in the Maritime Mobile Service and the Maritime Mobile-Satellite Service. That Conference repealed former Articles 38, 39, 40 and 40A in Chapter IX Of The International Radio Regulations and replaced them with a new Article 66. The effect of these changes is to supersede a detailed description of accounting in the Radio Regulations with Article 66 which states the requirements generally. [1] Detailed accounting provisions are now contained in CCITT Recommendations.

2. The ITU publishes an international List of Coast Stations which all ships compulsorily fitted with radiotelegraph are required to carry. By consulting this list, a vessel can determine the location of a coast station, its operating frequencies and hours of service. Under Araticle 66 and CCITT Recommendations a vessel will also expect any coast station in the list to accept international Accounting Authority Identification Cods for billing and accounting purposes for either telegraph or telephone messages. Historically, some U.S. coast stations have provided in their trariffs that vessels must open an individual account with those coast stations prior to obtaining service. Often these tariffs require payment of a subscriber fee or security deposit and use of a local account identifier. Because ships expect coast stations listed in the international List of Coast Stations to accept international Accounting Authority Identification Codes, stations which do not do so should not be included in the international List of Coast Stations.

3. Repeated complaints have come to the Commission from foreign administrations that some U.S. coast stations are not complying with hese new procedures. These administrations

[1] Article 66 of the Radio Regulations now provides for accounting authorities (Nos. 5086 through 5091); accounting procedures (Nos. 5092 through 5099); payment of balances (No. 5100); and archives (No. 5101 and 5102). The most recent CCITT Recommendations governing accounting are in Recommendation D. 90/F. 111, *Charging, Accounting and Refunds in the Maritime Mobile Service and Maritime Satellite Service*, and Recommendation 200/F.110, *Operational Provisions for the Mariatime Service*. By operation of Article 66, these recommendations now b!nd the United States

complain that U.S. coast stations have not been accepting traffic from foreign registered vessels unless they have opened an account with individual U.S. licensed coast stations. Some coast stations have not accepted the international Accounting Authority Identification Codes proffered in accordance with the new international procedures.

4. The purpose of this Notice of Proposed Rule Making is to implement these provisions of the Radio Regulations in our rules. Under the proposed rule revisions, all U.S. licensed coast stations would either accept the internationally recognized Accounting Authority Identification Code for purposes of billing and accounting or be removed from the List of Coast Stations. Accordingly, we propose to amend Part 81 of the Commission's rules as set forth in the attached Appendix.

5. The proposed amendments to the Commission's rules set forth in the attached Appendix are issued under the authority contained in sections 4(i) and 303 (b) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (b) and (r).

6. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before November 13, 1984, and reply comments on or before November 28, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. A person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

9. The United States and its coast stations are currently subject to international accounting procedures. The proposed rule provides that any U.S. coast station which does not wish to comply may, at its option, elect not to be included in the international List of Coast Stations. For this reason, we certify that pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

10. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

11. Regarding questions on matters covered in this document, contact Robert DeYoung, (202) 632–7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX

PART 81—[AMENDED]

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follow:

Section 81.179 is amended by adding a new paragraph (f) to read as follows:

§ 81.179 Message charges.

* * * * * *

(f) Public coast stations must accept recognized international Accounting Authority Identification Codes (AAIC) for purposes of billing and accounts settlement in accordance with Article 66 of the international Radio Regulations and governing CCITT Recommendations. These public coast stations will be notified to the ITU for inclusion in the ITU List of Coast Stations. Stations may elect not to comply with this provision in which case they will be removed from the international List of Coast Stations.

[FR Doc. 84–27170 Filed 10–12–84; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 97

[PR Docket No. 84–959; RM–4774; FCC 84–472]

Amendment of the Amateur Radio Service Rules To Include Additional Authorized Emissions For the Frequency Bank 1800–2000 kHz

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This document proposes to amend the Amateur Radio Service Rules to include additional modes of emission for the frequency band 1800–2000 kHz (160 meters). The proposed rules are necessary so that amateur radio operators may have additional emission modes with which to experiment for the benefit of the service. The effect of the proposed rules would be to allow emission modes in the 160 meter band which were previously unavailable and thereby increase the potential uses of the band for communications, including radioteleprinting (RTTY).

DATE: Comments are due by December 20, 1984 and replies by January 22, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio

Bureau, Washington, D.C. 20554 (202) 632–4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Notice of Proposed Rulemaking

In the matter of amendment of § 97.61 of the Amateur Radio Service Rules to include additional authorized emissions for the frequency band 1800–2000 kHz (PR Docket No. 84–959 RM–4774).

Adopted: October 4, 1984.
Released: October 10, 1984.

By the Commission.

1. Notice of Proposed Rulemaking in the above-captioned matter is hereby given.

2. The Commission has received a petition (RM–4774) from the American Radio Relay League, Inc. (ARRL) seeking to amend § 97.61(a) of the Amateur Radio Service Rules to authorize F1 emission in the 1800–2000 kHz frequency band (160 meters). The ARRL urges that no subband at 160 meters be created so that flexibility in intra-band planning may be achieved informally by amateur radio operators. The ARRL notes that only radiotelegraphy (A1) and radiotelephony (A3) emissions are permitted in the 160 meter band at the present time. The ARRL believes that other emission modes have been limited in this band in order to protect the LORAN–A radionavigation system which had priority over amateur radio communications. ARRL argues that there is no need to continue emission limitations in the 160 meter band since Canadian LORAN–A radiolocation operations have been discontinued.[1]

3. In support of its petition, the ARRL cites two factors. First, according to ARRL, there has been a rapid growth of radioteleprinter (RTTY) activity during the past five years. Petitioner believes that this growth will continue because of the availability of inexpensive personal computers which can be readily adopted to this emission mode. This increased RTTY activity will require additional RTTY channels. Second, ARRL also notes the continuing decline in sunspot numbers which is compressing skywave communications into the lower part of the HF bands and making the 160 meter medium frequency (MF) band essential at night for certain paths.

4. RM–4774 appeared in the Commission's Public Notice of March 5, 1984. Comments supporting and opposing the petition were filed. Some of the commenters who supported the petition asked that F3 emission (narrow-band frequency modulation) also be included for frequencies in the 160 meter band. In addition, Anthony J. Sivo requested that A5.F3 emission (slow-scan TV) also be included. F.A. Dunlap suggested that the 160 meter band be opened up to all authorized amateur emission modes. These suggestions have merit and will be reflected in our proposal.

5. Offshore Navigation, Inc. (ONI) said that it had no objection to the grant of the ARRL petition for rule making but that any action taken should recognize that amateur radio stations are operating in the band 1900–2000 kHz on a secondary basis to the radiolocation service. It also said that amateur operators should be warned with respect to investing in equipment to operate in the 1900–2000 kHz band that they may be required to cease operation in that band upon activation of the radiolocation service allocation. Racal-Decca Survey, Inc. (Racal) said that since it anticipates that it will have to move many of its existing radiolocation operations in the 1605–1800 kHz band to the 1900–2000 kHz band when radiolocation is displaced to make room for AM broadcasting, investment in amateur radio equipment should be concentrated in bands where amateur operation will be more long term.

6. The ARRL replied that ONI and Racal had gone beyond the limited issue raised, which is the encouragement of increased experimentation in the Amateur Radio Service on a frequency band now heavily occupied by amateur radio operators. The ARRL believes that the matter of relocation of radiolocation operations after the expansion of the AM broadcast band is irrelevant at this time.

7. The concerns of ONI and Racal are relevant to this proceeding. On September 5, 1984, the Commission proposed to make exclusive radiolocation frequency assignments to land mobile radio service users on frequencies between 1900–1950 kHz and shared radiolocation assignments on frequencies between 1950–2000 kHz (see Notice of Proposed Rule Making in PR Docket No. 84–874; FCC 84–412; 49 FR 36526, September 18, 1984). Interested amateur radio licensees may wish to file comments in that proceeding.

8. With the discontinuance of Canadian LORAN–A radiolocation operations in the 1900–2000 kHz portion of the band, there is no reason to continue to limit emission modes in the 160 meter band. Therefore, we propose to amend the rules to authorize A4, A5, F1, F3, F4 and F5 emissions for the band 1800–2000 kHz.[2] As a result of these proposed changes, amateur operators will be able to experiment with various emission modes for the benefit of the entire service. We propose to authorize these emissions throughout the entire 160 meter band and not carve out specific subbands within the band where a particular type of emission may be used. We wish to make it clear, however, that amateur radio licensees do not gain any equitable rights in the band. Thus, if this proposal results in final rules at a later date, investment in equipment by amateur radio licensees to operate with the additional emission modes should be made with full awareness of the fact that the rule making proceeding referred to above could affect the status of operation in the 1900–2000 kHz portion of the band.

9. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are premitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition on the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matter not fully covered in any previously-filed written comments in the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation must also state by docket number the proceeding to which it relates. See generally, § 1.231 of the Commission's Rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer

[1] The Commission by its Order of March 22, 1984 (FCC 84–103; 49 FR 12705, March 30, 1984) deleted, effective March 27, 1984, all restrictions on the use by amateur radio operators of the 160 meter band frequencies.

[2] A new system of emission designators is pending and will be used if this proposal results in final rules.

Assistance Office, FCC, Washington, D.C. 20554, (202) 623–700.

10. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in Section 1.415, 47 CFR 1.415, of the Commission's Rules, interested persons may file comments on or before December 20, 1984, and reply comments on or before January 22, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of thier comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The Secretary, Federal Communications Commission, Washington, D.C. 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. In accordance with Section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities, because these entities may not use the Amateur Radio Service of commerical radiocommunication (see 47 CFR 97.3(b)). In addition, because use by amateur radio licensees of the proposed additional emissions for 160 meters is optional rather than mandatory, there would be no significant impact on the manufacturers of amateur radio equipment.

13. In view of the foregoing, rule making petition RM–4774 filed by the ARRL is granted.

14. It is ordered, That the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the **Federal Register.**

15. For information concerning this proceeding, contact Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of the Title 47 of the Code of Federal Regulations would be amended, as follows:

The first entery in the table in § 97.61(a) would be revised to read, as follows:

§ 97.61 Authorized frequencies and emissions.

(a) * * *

Frequency band	Emissions	Limitations (see paragraph (b))
Kilohertz:		
1800 to 2000	A1, A3, A4, A5, F1, F3, F4, F5.	
* * * * *		

[FR Doc. 84–27160 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status and Critical Habitat for the Alabama Beach Mouse, Perdido Key Beach Mouse, and Choctawhatchee Beach Mouse

Correction

In FR Doc. 84–26344 appearing on page 39179 in the issue of Thursday, October 4, 1984, make the following correction: In column three, second complete paragraph, line twenty-five, "not" should read "now".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 49, No. 200
Monday, October 15, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

General Conference Committee of the National Poultry Improvement Plan; Intent to Reestablish

Notice is hereby given that the Secretary of Agriculture intends to reestablish the General Conference Committee of the National Poultry Improvement Plan (NPIP) as an Advisory Committee of the Department of Agriculture. This Committee serves as a forum for the study of problems relating to poultry health and, as the need arises, makes specific recommendations to the Secretary of Agriculture concerning ways in which the Department of Agriculture may assist the industry in solving these problems. In addition, the Committee advises the Department with respect to administrative procedures and interpretations of the NPIP provisions contained in 9 CFR Parts 145 and 147, and assists the Department in evaluating comments received from interested persons concerning proposed amendments to these provisions.

The seven industry members of the Committee are from various geographical regions of the United States and are elected by official State delegates to the NPIP Conference without regard to sex, ethnic, or racial background of qualified individuals. These elected members are poultry geneticists, pathologists, veterinarians, hatcherymen, breeding flockowners, or State administrators of the NPIP. Since the Committee is balanced geographically and by profession within the poultry industry, the members are in a position to advise the Department on matters relating to this segment of the poultry industry.

The General Conference Committee is chaired by the Assistant Secretary for Marketing and Inspection Services or his designee. The Administrator of the Animal and Plant Health Inspection Service (APHIS) will serve as Vice Chairman. A staff member, Special Diseases Staff, Veterinary Services, APHIS, will be Executive Secretary. The Committee shall report to the Secretary of Agriculture through the Administrator of APHIS and the Assistant Secretary for Marketing and Inspection Services.

The Secretary has determined that the reestablishment of this Committee is necessary and in the public interest.

Comments will be received for 15 days following publication of this notice to reestablish this Advisory Committee and should be addressed to Dr. Irvin L. Peterson, National Poultry Improvement Plan, Special Diseases Staff, VS–APHIS, Room 828, Federal Building, Hyattsville, MD 20782.

The NPIP is administered under the authority of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429).

Done at Washington, D.C., this 10th day of October 1984.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 84–27183 Filed 10–12–84; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

[Docket No. 84–025N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), and available to the public which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy in the labeling area.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling to be used on federally inspected meat and poultry products (9 CFR 317.4, 317.5, 381.132, and 381.134). Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601. *et seq.*) and the poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, generated complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from April 1, 1984, through September 30, 1984.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list of automatic distribution of future SLD policy memoranda may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Memo No.	Title and date	Issue	Reference
070	Fat and Lean Claims, May 8, 1984.	What are the guidelines for the review and approval of labeling claims relating to the fat and lean content of meat and poultry products?	Policy Memos 039 and 046.
071	Lite and Similar Terms, May 8, 1984	What are the guidelines for the review and approval of labeling terms such as "Lite," "Light," "Lightly" and similar terms?.	Policy Memo 039.
072	Composite Ingredients Statement, May 18, 1984	Can some form of composite ingredient labeling be used for a multi-ingredient component of a meat or poultry product?.	Replaces Policy Memos 060 and 065.
049C	Sodium Labeling Guidelines, June 14, 1984	What guidelines should be followed in the review and approval of labeling which includes sodium and/or salt information?	Replaces Policy Memo 049B.
073	Nutrition Labeling Partial Quality Control Programs, June 14, 1984.	Partial quality control (PQC) program requirements for nutrition labeled ground beef, hamburger, fabricated steak, fresh pork sausage, fresh beef sausage, cooked sausages, and margarine.	Replaces Policy Memos 028 and 062; 9 CFR 319.15(a), 319.15(b), 319.15(d), 319.141, 319.142, 319.180, and 319.700.
074	Partial Quality Control Programs for Sodium Labeling and/or Nutrition Labeling, August 7, 1984.	Under what conditions is a partial quality control (PQC) program not required for nutrition labeling, including sodium content information?	Replaces Policy Memo 073; 9 CFR 319.15(a), 319.15(b), 319.15(d), 319.141, 319.142, 319.180, and 319.700.
075	Dual Inspection Legends on Product Containers, August 14, 1984.	May both the meat inspection legend and the poultry product inspection legend be printed on the same product container?	N/A.
076	Standards and Labeling Requirements for Duck Liver and/or Goose Liver "Foie Gras" Products, September 21, 1984.	What are the standards and labeling requirements for duck liver and/or goose liver "foie gras" products?	N/A.

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done in Washington, D.C., on September 25, 1984.

Robert G. Hibbert,

Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 84-27120 Filed 10-12-84; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on November 16, 1984 at the Supervisor's Office, 701 Camino del Rio, Durango, Colorado. This meeting will start at 1:00 p.m. The board was established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; (3) discussion of the implementation of the San Juan National Forest Land and Resource Plan and the effects on the utilization of range betterment funds; and (4) discussion of the election of new board members which will be held also in November.

The meeting will be open to the public. Persons who wish to attend and participate should notify David W. Cook, San Juan National Forest, (303) 247-4874 prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: September 26, 1984.

John R. Kirkpatrick,

Forest Supervisor.

[FR Doc. 84-27122 Filed 10-12-84; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Textiles and Textile Products From Argentina, Colombia, Indonesia, Malaysia, Mexico, Panama, Peru, the Philippines, Portugal, Singapore, Sri Lanka, Thailand, Turkey; Postponement of Preliminary Countervailing Duty Determinations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Postponement of preliminary countervailing duty determinations.

SUMMARY: The Department of Commerce is postponing the preliminary determinations in the countervailing duty investigations of certain textiles and textile products from Argentina, Colombia, Indonesia, Malaysia, Mexico, Panama, Peru, the Philippines, Portugal, Singapore, Sri Lanka, Thailand, and Turkey. With respect to each investigation, the Department has concluded that the parties are cooperating, and has determined that each case is extraordinarily complicated and that additional time is necessary to make the preliminary determinations.

EFFECTIVE DATE: October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, D.C. 20230, telephone (202) 377-5496.

SUPPLEMENTARY INFORMATION: On August 8, 1984, the Department initiated countervailing duty investigations on certain textiles and textile products from Peru and Singapore (49 FR 32438). The Department also initiated countervailing duty investigations on certain textiles and textile products from Argentina, Indonesia, Malaysia, Portugal, Sri Lanka, Thailand, and Turkey on August 9, 1984 (49 FR 32639); from Colombia, Mexico, and Panama on August 13, 1984 (49 FR 32892); and from the Philippines on August 22, 1984 (49 FR 34381).

Section 703(c) of the Tariff Act of 1930, as amended, 19 U.S.C. 1671b(c) (the Act), provides that the Department may postpone a preliminary determination if the Department concludes that the parties concerned are cooperating and also determines that the case is extraordinarily complicted and additional time is necessary to make the preliminary determination. We have concluded that the parties involved in each of these investigations are cooperating. In addition, we have determined that each of the cases is extraordinarily complicated for the following reasons:

Argentina. The Department currently is investigating 10 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 116 categories of the *Tariff Schedules of the United States, Annotated* (TSUSA). Certain practices, such as the Reembolso, industrial parks, and tax reductions for investors, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 1775.

Colombia. The Department currently is investigating 9 alleged subsidy

practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 235 categories of the TSUSA. Certain practices, such as countertrade, the "CERT" tax rebate program, and free industrial zone certificates, are complex. The number of firms producing or exporting textiles and textile products is expected to be large.

Indonesia. The Department currently is investigating 13 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 309 categories of the TSUSA. Certain practices, such as industrial estates, countertrade, and foreign trade zones, are complex. In addition, the issues presented are novel, because this is the first time that we have conducted a countervailing duty investigation involving Indonesia under the Act. The number of firms producing or exporting textiles and textile products is estimated to be at least 2680.

Malaysia. The Department currently is investigating 14 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 303 categories of the TSUSA. Certain practices, such as industrial estates, preferential financing for Bumiputras, and tax incentives for exporters, are complex. In addition, the issues presented are novel, because we are aware of only one countervailing duty investigation involving Malaysia under the Act, and that investigation was conducted by the Treasury Department. The number of firms producing or exporting textiles and textile products is estimated to be 27.

Mexico. The Department currently is investigating 15 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 238 categories of the TSUSA. Certain practices, such as equity infusions, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 2150.

Panama. The Department currently is investigating 8 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 87 categories of the TSUSA. Certain practices, such as tax incentive programs, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Panama under the Act. The number of firms producing or exporting textiles and textile products is estimated to be 76.

Peru. The Department currently is investigating 12 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 257 categories of the TSUSA. In addition, the number of firms producing or exporting textiles and textile products is estimated to be 300.

Philippines. The Department currently is investigating 7 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 585 categories of the TSUSA. Certain practices, such as preferential access to foreign exchange, the Investment Incentives Policy Act of 1983, the Bataan export processing zone programs, the foreign currency retention scheme, and tax incentives for preferred investments, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 30,000.

Portugal. The Department currently is investigating 16 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 424 categories of the TSUSA. Certain practices, such as the Integrated Investment Incentive System and countertrade, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Portugal under the Act. The number of firms producing or exporting textiles and textile products is estimated to be 1020.

Singapore. The Department currently is investigating 19 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 379 categories of the TSUSA. Certain practices, such as the training center for apparel workers and venture capital tax incentives, are complex. The number of firms producing or exporting textiles and textile products is estimated to be 542.

Sri Lanka. The Department currently is investigating 10 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 222 categories of the TSUSA. Certain practices, such as textile self-sufficiency programs, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Sri Lanka under the Act. The number of firms producing or exporting textiles and textile products is estimated at 379.

Thailand. The Department currently is investigating 13 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 412 categories of the TSUSA. In addition, the issues presented are novel, because we are aware of only one countervailing duty investigation involving Thailand under the Act, and that investigation was conducted by the Treasury Department. The number of firms producing or exporting textiles and textile products is expected to be large.

Turkey. The Department currently is investigating 12 alleged subsidy practices that may provide bounties or grants to producers or exporters of textiles and textile products currently classifiable under approximately 139 categories of the TSUSA. Certain practices, such as the effect of multiple exchange rates, equity infusions, free trade zones, and the interrelationship of eligibility for and use of programs, are complex. In addition, the issues presented are novel, because we have never before conducted a countervailing duty investigation involving Turkey under the Act. The number of firms producing or exporting textiles and textile products is estimated to be 139.

We also determine that additional time is necessary to make the preliminary determination in each of these cases. In this regard, we note that petitioners filed these thirteen cases almost simultaneously, and that together they encompass an enormous number of companies and TSUSA categories.

We intend to issue preliminary countervailing duty determinations not later than December 17, 1984 for Argentina, Indonesia, Malaysia, Peru, Portugal, Singapore, Sri Lanka, Thailand, and Turkey; December 20, 1984 for Colombia and Panama; December 21, 1984 for Mexico; and December 31, 1984 for the Philippines.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: September 21, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-27151 Filed 10-12-84; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF EDUCATION

List of State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

AGENCY: Department of Education.

ACTION: Notice—List of State Agencies Recognized for the Approval of Public Postsecondary Vocational Education.

SUMMARY: The Secretary of Education lists State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States. The Secretary publishes this list for the purpose of determining institutional eligibility for Federal student assistance programs.

FOR FURTHER INFORMATION CONTACT: Joan Givens, Agency Evaluation Branch, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3637, ROB–3), U.S. Department of Education, Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: The Higher Education Act of 1965, as amended, requires the Secretary to publish a list of State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States for the purpose of determining institutional eligibility for Federal student assistance programs. The most recent list of recognized agencies was published in the **Federal Register** on January 19, 1979, 44 FR 4020. Since late 1983, agencies in Puerto Rico, Delaware and Washington have been recognized as reliable authorities by the Secretary. The Secretary has revised the list to include these three agencies. The list published here supersedes the list published on January 19, 1979.

State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

Arkansas State Board of Vocational Education
Delaware State Board of Education
Iowa State Board of Public Instruction
Kansas State Board of Education
Minnesota State Board for Vocational-Technical Education
Missouri State Board of Education
New Jersey State Board of Education
New York State Board of Regents
Oklahoma State Board of Vocational and Technical Education (for approval of all public postsecondary vocational education institutions and programs that are not offered for college credit or under the jurisdiction of the Oklahoma State Regents for Higher Education)
Oklahoma State Regents for Higher Education (for approval of public postsecondary vocational education programs for which credit earned is applied toward a degree, diploma, or other postsecondary academic or collegiate award, or which are given at State institutions comprising the Oklahoma State System of Higher Education)
Puerto Rico State Agency for the Approval of Public Postsecondary Vocational/Technical Education Institutions and Programs
Utah State Board for Vocational Education
Office of the Superintendent of Public Instruction, State of Washington

Dated: October 9, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84–27176 Filed 10–12–84; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board (ERAB)

Date & Time: October 31, 1984 from 8:30 a.m. to 5:00 p.m.; November 1, 1984 from 8:30 a.m. to 3:30 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 8E–089, Washington, DC 20585.

Contact: Sarah Goldman, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5444.

Purpose of the Parent Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: The specific agenda items and times are frequently subject to last minute changes. Visitors planning to attend for a specific topic should confirm the time prior to and during the day of the meeting.

Draft Agenda

October 31

8:30 a.m. Administrative Items Approval of Minutes Schedule of Future Meetings
9:00 a.m. Discussion of International Energy R&D Collaboration
10:15 a.m. Long-Range Energy R&D Strategy Study, Overview and Revised Guidelines Infrastructure Discussion
12:00 Noon Lunch
1:00 p.m. Demand Discussion
2:15 p.m. Supply Discussion
3:45 p.m. Research Discussion
4:50 p.m. Public Comment (10 minute rule)
5:00 p.m. Adjourn

November 1

8:30 a.m. Long Range R&D Strategy Study Discussion
9:45 a.m. National Energy Policy Plan Discussion, ERAB Comments on R&D Strategy and Approach to NEPP
10:45 a.m. DOE Review and Response to Recent ERAB Reports Secretary's MBO and Review Process, National Laboratory and University Affairs and Packard Panel Report, Materials R&D Status
12:00 noon Lunch
1:00 p.m. Panel Progress Reports, International R&D, Clean Coal, Materials R&D Review
1:30 p.m. Light Water Reactor Preliminary or Final Report Review
3:20 p.m. Public Comment (10 minute rule)
3:30 p.m. Adjourn

Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sarah Goldman at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 10, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84–27191 Filed 10–12–84; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–53065; TSH–FRL 2694–1]

Premanufacture Notices; Monthly Status Report for August 1984

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired

since publication of the last monthly summary. This is the report for August 1984.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-5305]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August and (e) PMNs for which the review period has been suspended. Therefore, the August 1984 PMN Status Report is being published.

Dated: October 9, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, August 1984

11. 68 Premanufacture Notices Received During the Month

PMN No.	Identity/and generic name	FR citation	Expiration date
84-1030	Generic name: Poly(alkylsuccinic diester)	49 FR 33718(8-24-84)	Oct. 29, 1984.
84-1031	....do	49 FR 33718(33719) (8-24-84)	Do.
84-1032	Generic name: Styrene/acrylate latex	49 FR 32110(32112) (8-10-84)	Oct. 30, 1984.
84-1033	Generic name: Alkylated phenol	....do	Do.
84-1034	Generic name: Mercaptocarboxylic acid ester reaction product with olefin	....do	Do.
84-1035	Generic name: Polyamide-imide	....do	Do.
84-1036	....do	....do	Do.
84-1037	Generic name: Diphenylmethane diisocyanate terminated polyester polyol polyurethane prepolymer.	49 FR 33718(33719) (8-24-84)	Oct. 31, 1984.
84-1038	Antimony pentachloride: dimethyl methyl-phosphonate complex	....do	Nov. 3, 1984
84-1039	Generic name: Polyester resin	....do	Nov. 4, 1984.
84-1040	Generic name: Acrylic resin	....do	Do.
84-1041	....do	....do	Do.
84-1042	Methylammonium n-methyldithiocarbamate	....do	Do.
84-1043	Generic name: Sulfurized magnesium soap	....do	Do.
84-1044	Generic name: Fatty dimethyl amine	....do	Do.
84-1045	Generic name: Fatty trimethyl ammonium chloride	....do	Do.
84-1046	2-naphthylamine-3,6,8-trisulfonic acid, disodium salt	....do	Do.
84-1047	Generic name: Aliphatic polycarbonate silicon urethane	....do	Nov. 5, 1984.
84-1048	Generic name: Aliphatic polycarbonate urethane	....do	Do.
84-1049	Generic name: Aromatic polyether urethane	....do	Do.
84-1050	Generic name: Aliphatic polycarbonate urethane	....do	Do.
84-1051	Generic name: Halogenated aromatic substituted olefin	....do	Do.
84-1053	Generic name: Ethoxylated vegetable fatty acids, end-capped	....do	Nov. 6, 1984.
84-1054	Generic name: Alkyl, sulfonic acid, ammonium salt	....do	Do.
84-1055	....do	....do	Do.
84-1056	....do	....do	Do.
84-1057	....do	....do	Do.
84-1058	Polymer of diethylene glycol, maleic anhydride and benzoic acid	49 FR 33718(33721) (8-24-84)	Nov. 7, 1984.
84-1059	Generic name: Fluoropolyester modified toluene diisocyanate polymer	....do	Do.
84-1060	Generic name: Polyamide-graft-polyacrylate polymer	....do	Do.
84-1061	Generic name: Trisubstituted malonamide	....do	Nov 10, 1984.
84-1062	Methyl vinyl sulfone	....do	Do.
84-1063	1,3-bis(1-phenylethenyl) benzene	....do	Nov. 11, 1984.
84-1064	Generic name: Modified polyacrylamide anionic polymer	....do	Do.
84-1065	Generic name: Polymer of mixed fatty acids, substituted aromatic dicarboxylic acids and an aliphatic triol.	....do	Do.
84-1066	Generic name: Substituted trisazo dye, salt	....do	Do.
84-1067	Generic name: Substituted metal complex	....do	Do.
84-1068	N-dimethylthiocarbamylthio-N'-phenyl urea	....do	Do.
84-1069	Generic name: Substituted ether of alkoxylated fatty alcohol	....do	Nov. 13, 1984.
84-1070	Generic name: Alkoxylated fatty alcohol	....do	Do.
84-1072	Generic name: Copolyester polymer	....do	Do.
84-1073	....do	....do	Do.
84-1074	Generic name: Polyurethane polymer	49 FR 34572(8-31-84)	Nov. 17, 1984.
84-1075	Generic name: Propargyl ester	....do	Do.
84-1076	Benzene, 1-(1-phenylethenyl)-3-(1-phenyl-ethyl)	49 FR 34572(34573) (8-31-84)	Do.
84-1077	Generic name: Polyamine ion exchange resin	....do	Do.
84-1078	Generic name: Partial sodium salt of amino-methylene phosphonic acid	....do	Do.
84-1079	Generic name: Alkylated diphenyl oxide	....do	Nov. 18, 1984.
84-1080	Generic name: Cyclic phosphite	....do	Do.
84-1081	Generic name: Styrene acrylic copolymer	....do	Do.
84-1082	....do	....do	Do.
84-1083	Generic name: Acrylic copolymer	....do	Do.
84-1084	....do	....do	Do.
84-1085	Generic name: Polymer of aliphatic diamines, and alkanediol polyester, a monoalcohol polyether, and aliphatic diisocyanates.	....do	Do.
84-1086	Generic name: Caprolactone modified by hydroxy ethyl acrylate	....do	Do.
84-1087	Generic name: Modified polyester	....do	Nov. 20, 1984.
84-1088	Generic name: Polyester	....do	Do.
84-1089	Generic name: Modified, maleated metal resinate	49 FR 34572(34574) (8-31-84)	Do.
84-1090	Generic name: Fatty acid, carbomonocyclic	....do	Do.

1I. 68 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/and generic name	FR citation	Expiration date
84-1091	....do	....do	Do.
84-1092	....do	....do	Do.
84-1093	....do	....do	Do.
84-1094	....do	....do	Do.
84-1095	....do	....do	Do.
84-1096	....do	....do	Do.
84-1097	Generic name: Alkyl phosphate ester amine salt	....do	Do.
84-1098	Generic name: Acetal interpolymer	....do	Do.
84-1099	4-anilino-4'-hydroxy azo benzene	....do	Do.

II. 131 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
84-899	Generic name: Poyether polyol oligomer	49 FR 28616 (28617) (7-13-84)	Sept. 29, 1984.
84-900	1,3,5,-Triazine-2,4,6 (1H, 3H, 5H)-trione, 1,3,5-tris(2,3-dibromopropyl)-	....do	Do.
84-901	Bis(tetrabromobisphenol A)Bis(tribromophenyl)ethylenetetracarbonate	....do	Sept. 30, 1984.
84-902	Hexabromodiphenyl amine	....do	Do.
84-903	N-methylhexabromodiphenyl amine	....do	Do.
84-904	Generic name: Unsaturated polyester resin	....do	Do.
84-905	Generic name: Rosin modified phenolic	....do	Do.
84-906	Generic name: Unsaturated polyester resin	....do	Do.
84-907	Generic name: Rosin modified phenolic	....do	Do.
84-908	Generic name: Functional polyester	....do	Do.
84-909	Generic name: Modified alkyd resin	....do	Do.
84-910	Phenol, *p*-allyl	....do	Do.
84-911	Cyclododecane, (2-methoxyethoxy)-	....do	Do.
84-912	Benzoxazolium, 5-chloro-2-[2-[[5-chloro-3-(4-sulfobutyl)-2 (3H)-Benzoxazolylidene]methyl]-1-butenyl]-3-(4-sulfobutyl)-triethyl ammonium salt.	49 FR 28616(28618) (7-13-84)	Oct. 2, 1984.
84-913	Generic name: N,N'-bis(2-[2-(3-alkyl)thiazoline]vinyl)-1,4-phenylene diamine double salt	....do	Do.
84-914	Benzoic acid, 4-hydroxy-3-methoxy-, ethyl ester	....do	Do.
84-915	Generic name: Acrylic modified alkyd resin	....do	Do.
84-916	Generic name: Mixed chromium complexes of substitued hydroxyphenyl azo hydroxy-naphthalenes, amine salts.	49 FR 29451 (7-20-84)	Oct. 3, 1984.
84-917	Generic name: Mixed chromium complexes of substituted hydroxyphenol azo hydroxy-naphthalenes, sodium salts.	....do	Do.
84-918	Generic name: Urethane-ester polymer	49 FR 29451(29452) (7-20-84)	Do.
84-919	....do	....do	Do.
84-920	....do	....do	Do.
84-921	Generic name: Hydroxyl functional styrene-acrylic polymer	....do	Oct. 6, 1984.
84-922	3,5-dinitrobenzyl chloride	....do	Do.
84-923	Generic name: Polyurethane prepolymer	....do	Do.
84-924	Generic name: Substituted anthraquinone	....do	Oct. 7, 1984.
84-925	....do	....do	Do.
84-926	Generic name: Hydroxyl-terminated poly (oxyalkylene) polyol	....do	Do.
84-927	Generic name: Carbopolycyclic alkenyl ether Do.	....do	Do.
84-928	Polymer: 2-Butenedioic acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, potassium hydroxide.	....do	Do.
84-929	Polymer: 2-Butenedioic acid (Z)-, mono-Methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, sodium hydroxide.	....do	Do.
84-930	Polymer: 2-Butenedioic acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-1-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide.	....do	Do.
84-931	Polymer: 2, Butenedioic acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2, 5-furandione and (Z)-2-methylpropyl hydrogen 2-butenedioate, potassium hydroxide.	....do	Do.
84-932	Polymer: 2, Butenedioic acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (z)-2-methylpropyl hydrogen 2-butenedioate, sodium hydroxide.	49 FR 29451(29453) (7-20-84)	Do.
84-933	Polymer: 2, Butenedioic acid (Z)-, mono-methyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-2-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide.	....do	Do.
84-934	Generic name: Polyamide	....do	Do.
84-935	....do	....do	Do.
84-936	Generic name: Aromatic Keto-ester	....do	Do.
84-937	Polymer of Desmodur W, teracol 650, hydroxy ethyl acrylate and jeffamine	....do	Do.
84-938	Polymer of hydroxy ethyl acrylate and polyisocyanate T 1890/100	....do	Do.
84-939	Generic name: Polymer of Desmodur W, caprolactone diol, hydroxy ethyl acrylate and jeffamine	....do	Do.
84-940	Generic name: Vinyl actate-acrylic copolymer	....do	Do.
84-941	Generic name: Substituted polyisobutenyl-succinimide	....do	Do.
84-942	Generic name: Acrylate epoxysilicone	....do	Do.
84-943	Generic name: Aromatic alkyl ether	....do	Do.
84-944	....do	....do	Do.
84-945	Generic name: Trisubstituted aminobenzoic acid ester	....do	Do.
84-946	Generic name: Modified epoxy resin solution	49 FR 30238 (7-27-84)	Oct. 10, 1984.
84-947	Generic name: Modified pigment yellow 12	49 FR 30238(30239) (7-27-84)	Do.
84-948	Oxidase alcohol	....do	Do.
84-949	Generic name: Modified epoxy resin	....do	Do.
84-950	Generic name: Dimer acids, monocarboxylic acid, polyamines polyamide resin	....do	Do.
84-951	Generic name: Substituted aminobenzoic acid ester	....do	Do.
84-952	Generic name: Ketimine	....do	Do.
84-953	Generic name: Reacted epoxy resin	....do	Do.
84-954	Generic name: Substituted aromatic	....do	Do.
84-955	Generic name: Modified polyester resin	....do	Do.
84-956	Generic name: Polyester resin	....do	Do.
84-957	....do	....do	Do.
84-958	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylate	....do	Do.
84-959	Generic name: Substituted polyamine	....do	Do.
84-960	Generic name: Complex polyurethane	....do	Do.
84-961	Generic name: Modified polymer of styrene with alkyl methacrylates	49 FR 30238(30240) (7-27-84)	Do.
84-962	Generic name: Metal salt of phosphoric acid ester	....do	Do.
84-963	6-Nitro-2(3H)-benzoxazolone	....do	Do.

II. 131 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-964	Generic name: Disubstituted hexanamide	....do	Do.
84-965	Generic name: Alkyd resin	....do	Do.
84-966	Generic name: Oligomeric diol	....do	Do.
84-967	Generic name: Polyether urethane polymer	....do	Do.
84-968	Generic name: alkyl ester	....do	Do.
84-969	Generic name: Modified sodium polyacrylate	....do	Do.
84-970	Generic name: Substituted sodium sulfo-succinamate	....do	Do.
84-971	Generic name: 2-propanol-1,1 thiobis, oxirane extended, alkyl terminated	....do	Do.
84-972	Generic name: Epoxidized alcohol	....do	Do.
84-973	Generic name: Substituted triazine	....do	Do.
84-974	Generic name: Acrylic ester terpolymer	49 FR 30238(30241) (7-27-84)	Do.
84-975 #	Generic name: Polymer of aliphatic diamines, an alkanediol polyester, a monoalcohol polyether, a metal salt of an alkenediol polyether, and aliphatic diisocyanate.	....do	Oct. 15, 1984.
84-976	Generic name: Polyamic acid	....do	Do.
84-977	Generic name: Aluminum modified long oil alkyd 85% in white spirit	....do	Oct. 16, 1984.
84-978	Generic name: Polyurea polyurethane polymer	....do	Do.
84-979	....do	....do	Do.
84-980	....do	....do	Do.
84-981	Generic name: Polyether polyol oligomer	....do	Do.
84-982	1,3-bis(1-phenylethyl)benzene	....do	Do.
84-983	Generic name: Polyester resin based on mixed phthalic acids and mixed polyols	....do	Do.
84-984	Generic name: Modified polyester polyurethane	49 FR 31136 (8-3-84)	Oct. 17, 1984.
84-985	Generic name: Modified terpolymer of maleic anhydride, styrene and 1-substituted alkene, sodium salt.	49 FR 31136(31137) (8-3-84)	Do.
84-986	4,4'-bis[4-[3-acetylamino-4-(4,8-disulfo-2-naphthylazo)anilino-6-(3-carboxypyridino) 1,3,5-triazin-2-ylamino]-2,2'-disulfostilbene dihydroxide hexasodium salt.	....do	Oct. 20, 1984.
84-987	2,4-bis[4-[3-acetylamino-4-(4,8-disulfonate-2-naphthylazo)anilino]-6-(3-carboxy-pyridino)-1,3, 5-triazin-2-ylamino]benzen-sulfonate-dihydroxide=pentasodium.	....do	Do.
84-988	Hexasodium salt-1,4-bis[4-(3-carboxy-pyridino-6-[3,6-disulfo-8-hydroxy-7-(2-sulfophenylazo-1-naphtylamino]-1,3,5-triazine-2-ylamino]benzene-dihydroxide.	....do	Do.
84-989	4-amino-3,6-bis[5-[4-(3-carboxypyridinio)-6-(4-chloro-3-sulfonatoanilino)-1,3,5-triazin-2-ylamino]-2-sulfonato-phenylazo]-5-hydroxy-2,7-naphthalene-disulfonate-dihydroxide, hexasodium.	....do	Do.
84-990	[2-[alpha[3-[4-(3-carboxypyridinio)-6-(2-chloro-5-sulfoanilino)-1,3,5-trazin-2-ylamino]-2-hydroxy-5-sulfophenylazo] benzylidene hydrazino]-4-sulfobenzoato-(0,0'(5)]copper (II) acid trisodium salt hydroxide.	....do	Do.
84-991	Cellulose, acetate propenoate, [(1-oxo-2-propenyl)amino] methyl ether	....do	Oct. 21, 1984.
84-992	Generic name: Polyurethane polymer	....do	Do.
84-993	1,3-phenylene-bis(3-methyl-1-phenyl-pentylidene)bis-lithium	....do	Do.
84-994	Generic name: Modified corn oil	....do	Do.
84-995	Generic name: Aromatic substituted ammonium sulfimide	....do	Do.
84-996	Generic name: Polyalkyl benzene sulfonic acid	....do	Oct. 22, 1984.
84-997	....do	49 FR 31136(31138) (8-3-84)	Do.
84-998	....do	....do	Do.
84-999	....do	....do	Do.
84-1000	Generic name: Benzene alkyl sulfonic acid	....do	Do.
84-1001	Generic name: Ethoxylated sorbitol, fatty acid ester	....do	Oct. 23, 1984.
84-1002	Generic name: Hydroxyl-terminated poly (oxyalkylene)polyol containing polyurea	....do	Do.
84-1003	....do	....do	Do.
84-1004	Generic name: Dihydroxyalkylamine	....do	Do.
84-1005	Generic name: Alkyl amine derivative	49 FR 32110 (8-10-84)	Oct. 24, 1984.
84-1006	Terpolymer of isoprene, styrene and alphamethylstyrene	....do	Do.
84-1007	Generic name: 3-alkyl-2-(2-anilino)vinyl thiazolinium salt	....do	Do.
84-1008	Generic name: alkyl thiadiazole	....do	Do.
84-1009	Generic name: Aliphatic polycarbonate urethane	....do	Do.
84-1010	....do	....do	Do.
84-1011	Generic name: Aliphatic polyester urethane	....do	Do.
84-1012	....do	....do	Do.
84-1013	Generic name: Aliphatic polyether urethane	....do	Do.
84-1014	....do	49 FR 32110(32111) (8-10-84)	Do.
84-1015	Generic name: Modified acrylamide polymer	....do	Do.
84-1016	....do	....do	Do.
84-1017	....do	....do	Do.
84-1018	Generic name: Urethane adduct	....do	Oct. 27, 1984.
84-1019	Generic name: Polysubstituted alkyl thiocyanate	....do	Do.
84-1020	Generic name: Isophthalic polyester	....do	Do.
84-1021	Generic name: Modified styrene-divinyl-benzene polymer	....do	Do.
84-1022	....do	....do	Do.
84-1023	Quadpolymer of isoprene, 1,3-butadiene, styrene and alpha-methylstyrene	....do	Oct. 28, 1984.
84-1024	Generic name: Alkyl substituted 4-amino, 1-8 naphthalimide	....do	Do.
84-1025	Generic name: Modified essential oil	....do	Do.
84-1026	Generic name: Phenol, benzylic ether	....do	Do.
84-1027	Generic name: Sulfurized reaction products of animal oil, vegetable fatty ester, olefin and turpentine.	....do	Do.
84-1028	1,4 dimethylol cyclohexane ethoxylate propoxylate	....do	Do.
84-1029	Generic name: Polyether aromatic isocyanate terminated prepolymer	....do	Do.

III. 133 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month

[Expiration of the notice review period does not signify that the chemical had been added to the Inventory]

PMN No.	Identity/generic name	FR citation	Expiration date
82-60	Generic name: Zinc, O,O-bis alkylphosphorodithioate	47 FR 5932 (2-9-82)	Aug. 5, 1984.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25400 (24501) (6-11-82)	Aug. 15, 1984.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	....do	Do.
83-1162	Generic name: Substituted pyridine	48 FR 41636 (41643) (9-16-83)	Aug. 6, 1984.
83-1163	....do	....do	Do.
84-224	Generic name: Alkoxylated bisphenol A, inorganic ester, monoethanolamine salt	48 FR 55332 (12-12-83)	Aug. 13, 1984.
84-274	Poly (OXY-1,4-butanediyl)-X-(1-OXO-2-propenyl)-w-[(1-OXO-2-propenyl)OXY]	48 FR 57618 (57619) (12-30-83)	Aug. 15, 1984.

III. 133 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH—Continued

(Expiration of the notice review period does not signify that the chemical had been added to the inventory)

PMN No.	Identity/generic name	FR citation	Expiration date
84-393	Generic name: 2-Chloro-N-methyl-N-substituted acetamide	49 FR 6160 (6162) (2-17-84)	Aug. 20, 1984.
84-417	Generic name: Substituted phenol	49 FR 6991 (6993) (2-24-84)	Aug. 17, 1984.
84-538	Generic name: Disubstitutedsulfamoylcarbomonocycle azo substituted naphthalene sulfonic acid	49 FR 13744 (13745) (4-6-84)	Aug. 21, 1984.
84-580	Generic name: Isopropyl ester of substituted acetic acid	49 FR 16833 (16834) (4-20-84)	Do.
84-581	Generic name: Oxaspiroalkane	do	Do.
84-582	Generic name: Substituted trialkylbicyclononene	do	Do.
84-583	Generic name: Alkyl salicylate	do	Do.
84-585	Generic name: Alkyl pentanoate ester	do	Do.
84-608	Generic name: Substituted oxazinium salt	49 FR 18034 (4-26-84)	Aug. 17, 1984.
84-672	Generic name: Reaction product of epoxides and aromatic amine	49 FR 22128 (22129) (5-25-84)	Aug. 13, 1984.
84-678	Generic name: Halogenated vinyl monomer	49 FR 21113 (5-18-84)	Aug. 1, 1984.
84-679	Generic name: Salt of dialkylphosphorodithioic acid	do	Aug. 4, 1984.
84-680	do	do	Do.
84-681	Generic name: Unsaturated and saturated alkanoic acids	do	Aug. 5, 1984.
84-682	Generic name: Modified, fatty amidoamine	do	Do.
84-683	Generic name: Substituted succinic anhydride	do	Do.
84-684	Generic name: Polymer of formaldehyde and substituted phenols	do	Do.
84-685	1,3-isobenzofurandione, 5,5'-carbonylbis, reaction products with methanol	do	Do.
84-686	Bicyclo [2.2.1]HEPT-5-ENE-2,3-dicarboxylic acid, monomethyl ester, (Endo, Endo)	49 FR 21113 (21114) (5-18-84)	Do.
84-687	Generic name: Substituted benzyl amino polyol	do	Do.
84-688	2-Thiazolium, 2,2'-[(2-carboxy-p-phenylene) bis(iminovinylene)] bis [3-ethyl] diiodide triethylamine salt.	do	Do.
84-689	Generic name: Sulfurized reaction products of animal oil and vegetable fatty ester	do	Aug. 6, 1984.
84-690	Carboxymethylated soy fiber	do	Do.
84-691	1-(1-hydroxy-4-methyl-2-phenylazo)-2-naphthol-4-sulfonic acid triethanol-ammonium salt	do	Aug. 7, 1984.
84-692	Generic name: Polymer of carbomonocyclic acid, carbomonocyclic anhydride, alkanediols and alkane dioic acid.	do	Do.
84-693	Generic name: Dithiocarbamate salt	49 FR 22128 (22129) (5-25-84)	Aug. 8, 1984.
84-694	Generic name: Bisphenol diester	do	Do.
84-695	Generic name: Oil modified polyester	do	Do.
84-696	Generic name: Organic salt of quaternary aliphatic cyclic amine	do	Do.
84-697	Generic name: Polyurethane plastics	do	Do.
84-699	Generic name: Substituted naphthalenedisulfonic acid, sodium salt	do	Do.
84-700	Generic name: Substituted polyamine	do	Do.
84-701	Generic name: Modified styrene methacrylic	49 FR 22128 (22130) (5-25-84)	Aug. 11, 1984.
84-702	Generic name: Terpene ether alcohol	do	Do.
84-703	Oxo-octyl acetate	do	Do.
84-704	Generic name: Substituted alkyl arene	do	Do.
84-705	Benzenamine, 2-ethyl-6-methyl-N-methylene	do	Do.
84-706	Generic name: Polyesterimide resin	do	Aug. 12, 1984.
84-707	do	do	Do.
84-708	Polymer of: Naphtha (petroleum) light stem cracked debenzenized polymers, linseed oil, soya oil, phthalic anhydride, isophthalic acid, glycerine, castor oil, maleic anhydride fumaric acid, oxalic acid, pentaerythritol.	do	Do.
84-709	Generic name: Alkanediol based polymer	do	Do.
84-710	Generic name: Copolymer of acrylates and methacrylates	do	Do.
84-711	Generic name: Modified, maleated metal resinate	do	Do.
84-712	Generic name: Substituted phenyleneazo-naphthalene trisulfonic acid	do	Do.
84-713	Generic name: Acrylated alkoxylated aliphatic polyol	do	Do.
84-714	Generic name: Polyurethane elastomer	49 FR 22128 (22131) (5-25-84)	Do.
84-715	Generic name: Hexadecyl functional silane	do	Do.
84-716	Generic name: Modified alkylphenol resin	do	Aug. 13, 1984.
84-717	Generic name: Modified essential oil	do	Do.
84-718	2,4-dinitrobenzaldehyde	do	Do.
84-719	2-(2,4-dinitrophenyl)benzothiazoline	do	Do.
84-720	Generic name: Modified polyvinyl amide	do	Do.
84-721	Generic name: Epoxy modified acrylic polymer	do	Do.
84-722	1-Naphthalene sulfonic acid, 4-[(2-hydroxy-1-naphthalenyl)azo]-barium salt (2 : 1)	do	Do.
84-723	1-Naphthalenesulfonic acid, 5-[(2-hydroxy-1-naphthalenyl)azo]-barium salt (2 : 1)	do	Do.
84-724	1-Naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1 : 1)	do	Do.
84-725	1-Naphthalenesulfonic acid, 4-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1 : 1)	do	Do.
84-726	1-Naphthalenesulfonic acid, 5-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1 : 1)	do	Do.
84-727	5-[3,5-dinitrophenyl)methylthio]-1-phenyl-1H-tetrazole	do	Aug. 14, 1984.
84-728	Generic name: Polyesterimide resin	49 FR 22128 (22132) (5-25-84)	Do.
84-729	do	do	Do.
84-730	Generic name: Modified polyester	do	Do.
84-731	Generic name: Polymer of aliphatic diacid, aliphatic polyamines and substituted alkane	do	Do.
84-732	Generic name: Aromatic polyglycol ether polymer	49 FR 22865 (22866) (6-1-84)	Aug. 18, 1984.
84-733	Generic name: Functional polymer of styrene and alkyl methacrylate	do	Aug. 19, 1984.
84-734	Generic name: Acrylate terpolymer	do	Do.
84-735	Generic name: Polyester urethane	do	Do.
84-736	Generic name: Terpolymer of acrylate and methacrylates	do	Do.
84-737	Generic name: Glycol ether	do	Do.
84-738	do	do	Do.
84-739	Generic name: Phenolated rosin—modified alkyd	do	Aug. 20, 1984.
84-740	Generic name: Substituted dianhydride and cyclic amine polymer	do	Do.
84-741	Generic name: Substituted dianhydride, cyclic amine and substituted amine terminated polymer	do	Do.
84-743	Generic name: Aromatic polyglycolether polymer	49 FR 22865 (22867) (6-1-84)	Aug. 21, 1984.
84-744	Generic name: Haloalkyl-polynitro-halobenzene	49 FR 23916 (6-8-84)	Aug. 22, 1984.
84-745	Generic name: Fatty alcohols, hydroxy stearate	do	Do.
84-746	Generic name: Polyalkylene glycols	do	Do.
84-747	do	do	Do.
84-748	Generic name: Modified polyol acetals	49 FR 23916 (23917) (6-8-84)	Do.
84-749	Generic name: Cyclic ester	do	Do.
84-750	do	do	Do.
84-751	do	do	Do.
84-752	do	do	Do.
84-753	do	do	Do.
84-754	do	do	Do.
84-755	Generic name: Aromatic ester	do	Do.

III. 133 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month—Continued

[Expiration of the notice review period does not signify that the chemical had been added to the Inventory]

PMN No.	Identity/generic name	FR citation	Expiration date
84-756	....do	....do	Do.
84-757	....do	....do	Do.
84-758	....do	....do	Do.
84-759	....do	....do	Do.
84-760	....do	49 FR 23916 (23918) (6-8-84)	Do.
84-761	Generic name: Polyester/acrylic copolymer	....do	Aug. 26, 1984.
84-762	Generic name: Polyester from mixed alkane diols and mixed acids	....do	Aug. 27, 1984.
84-763	Polymer of: vinyl acetate, butyl acrylate, hydroxy ethyl acrylate, acrylic acid	....do	Do.
84-764	Generic name: Polymer of formaldehyde and substituted phenols	....do	Do.
84-765	....do	....do	Do.
84-766	....do	....do	Do.
84-767	....do	....do	Do.
84-768	....do	....do	Do.
84-769	....do	....do	Do.
84-770	Generic name: Alkyd resin	....do	Do.
84-771	Generic name: Butyl salicylic acid potassium salt aqueous solution	....do	Do.
84-772	Generic name: Mixed amidoamine	....do	Do.
84-773	....do	....do	Do.
84-774	....do	....do	Do.
84-775	....do	....do	Do.
84-776	....do	48 FR 23916 (23919) (6-8-84)	Do.
84-777	....do	....do	Do.
84-778	....do	....do	Do.
84-779	....do	....do	Do.
84-780	Generic name: Aliphatic diacrylate	....do	Do.
84-781	Generic name: Disubstituted acrylamide salt	....do	Do.
84-782	Generic name: Pentasubstituted naphthalenecarboxamide	....do	Do.
84-783	5-fluorosulfonyl-2-methoxybenzenesulfonyl chloride	....do	Do.
84-784	Generic name: Polymer of substituted acrylic acid esters and disubstituted acrylamides	....do	Do.
84-785	Generic name: Disubstituted naphthoic acid	....do	Do.
84-786	Generic name: Polysubstituted heterocycle	....do	Do.
84-787	Hydroxyl functional styrene—acrylic pentapolymer	....do	Do.
84-788	Generic name: Polyester resin	49 FR 23916 (23920) (6-8-84)	Aug. 26, 1984.
84-789	Generic name: Amino aromatic ester	....do	Do.
84-790	Generic name: Monosubstituted phenyl azo polysubstituted heterocycle	....do	Do.
84-791	Generic name: Substituted hydroxy urethane	....do	Do.
84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	....do	Do.
84-793	Generic name: Disubstituted anthraquinone-2-sulfonic acid	....do	Do.
84-794	Generic name: Benzoselenazole based cyanine dye	49 FR 24782 (6-15-84)	Aug. 29, 1984.
84-795	Generic name: Carbomonocyclic, carbopolycyclic polyester	....do	Do.

IV. 33 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
82-13	Generic name: Polyester diol	47 FR 3031 (1-21-82)	Sept. 9, 1984.
82-259	Generic name: Aliphatic oligometric carbonate diol	47 FR 16403(16404) (4-16-82)	Do. 1984.
83-662	Generic name: Melamine formaldehyde resin	48 FR 20490 (5-6-83)	July 16, 1984.
83-737	Generic name: Hydroxy functional acrylic resin	48 FR 23903(23904) (5-27-83)	July 27, 1984.
83-759	Generic name: Functionalized acrylic polymer	48 FR 24967 (6-3-83)	July 23, 1984.
83-1009	1-propanaminium, 2,3,-di-hydroxy-N,N,N-trimethylchloride	48 FR 36647(36648) (8-12-83)	Aug. 3, 1984.
83-1024	Generic name: Polyether urethane-methacrylate blocked	48 FR 37699 (8-19-83)	July 31, 1984.
83-1081	Generic name: Quaternary ammonium chloride	48 FR 39689(39691) (9-1-83)	Aug. 27, 1984.
83-1158	Generic name: Polymer of styrene with mixed alkyl acrylates and methacrylates	48 FR 41638(41642) (9-16-83)	June 28, 1984.
83-1308	Generic name: Benzo-heterocyclic, 2-[[4-[alkyl(2-hydroxyalkyl)amino]phenyl]azo]-6-methoxy-3-alkyl-, chloride.	48 FR 45842(45843) (10-7-83)	July 20, 1984.
84-172	Generic name: Functional acrylic copolymer	48 FR 50944(50950) (11-4-83)	Jan. 19, 1984.
84-259	Generic name: Bis(polyalkylaminotriphenyl)-bis(alkylamino)benzene	48 FR 56846 (12-23-83)	July 26, 1984.
84-328	Generic name: Modified linseed alkyd	49 FR 3523(3524) (1-27-84)	Aug. 2, 1984.
84-393	Generic name: 2-choloro-N-methyl-N-substituted-acetamide	49 FR 6160 (6162) (2-17-84)	Aug. 27, 1984.
84-399	Generic name: Blocked amine	49 FR 6991 (2-24-84)	July 23, 1984
84-442	Generic name: Expoxy-modified urethane polymer	49 FR 9013 (9014) (3-9-84)	Aug. 15, 1984
84-451	Generic name: Phenoxazin imine	....do	July 18, 1984.
84-481	Generic name: Polyester urethane polymer	49 FR 9954(9955) (3-16-84)	July 30, 1984.
84-533	Generic name: Acrylated polyurethane-polyester/polyether backbone	49 FR 13744(13745) (4-6-84)	On or about Aug. 28, 1984.
84-535	Generic name: Alkali metal polycarboxylate	....do	Aug. 28, 1984.
84-551	Generic name: Polymeric polyamine	49 FR 14802(14803) (4-13-84)	July 13, 1984.
84-552	....do	....do	July 17, 1984.
84-568	Generic name: Substituted tall oil polymer	49 FR 14802(14804) (4-13-84)	July 20, 1984.
84-579	Generic name: Substituted alkenol	49 FR 16833(16834) (4-20-84)	Aug. 8, 1984.
84-583	Generic name: Alkyl salicylate	....do	On or about Aug. 22, 1984.
84-623	Generic name: Cross-linked copolymer of 2 propenamide and 2 propenoic acid sodium salt	49 FR 18034(18035) (4-26-84)	Sept. 6, 1984.
84-656	Generic name: Substituted ammonium phenyl-phosphonate	49 FR 19110(19113) (5-4-84)	Aug. 15, 1984.
84-657	Generic name: Sulfonated amino naphthalene	....do	Do.
84-659	Generic name: Iron complex of a substituted phenyl azo	....do	Aug. 6, 1984.
84-681	Generic name: Unsaturated and saturated alkanoic acids	49 FR 21113 (5-18-84)	Aug. 14, 1984.
84-683	Generic name: Substituted succinic anhydride	....do	Aug. 6, 1984.
84-691	1-(1-hydroxy-4-methyl-2-phenylazo)-2-naphthol-4-sulfonic acid triethanol-ammonium salt	49 FR 21113(21114) (5-18-84)	Aug. 15, 1984.
84-748	Generic name: Modified polyol acetals	49 FR 23916(23917) (6-8-84)	Aug. 30, 1984.

V. 96 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Indentity/generic name	FR citation	Date suspended
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10-18-82)	Oct. 22, 1982.
83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 72(73) (1-3-83)	Mar. 14, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorotriazinylamino-methoxymethylphenylazo	48 FR 5304 (2-4-83)	Aug. 18, 1983.
83-418	Generic name: Benzenedisulfonic acid, chlorotriazinylaminodimethylphenylazo-sulfonaphthalenazo-.	48 FR 5304 (5306) (2-4-83)	Do.
83-461	Generic name: Substituted alkoxy silane	48 FR 7299 (7300) (2-18-83)	Apr. 25, 1983.
83-694	Generic name: Substituted mono azo aromatic	48 FR 17365 (4-22-83)	July 5, 1983.
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfonaphthol.	48 FR 20490 (5-6-83)	Aug. 5, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazo-sulfophenylpyrazolone.	48 FR 20490 (20491) (5-6-83)	Do.
83-755	4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6-3-83)	Aug. 17, 1983.
83-770	Generic name: Cobalt complex of a substituted phenylazonaphthol	48 FR 24967 (24968) (6-3-83)	Aug. 15, 1983.
83-771	Generic name: Chromium complex of substituted phenylazoalkylarylamino-formimidphenol with sulfonaphthylazo-sulfonaphthol.	do	Do.
83-831	Generic name: Disazo solvent red dye	48 FR 29054 (29055) (6-24-83)	Sept. 9, 1983.
83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30434 (30435) (7-1-83)	Sept. 21, 1983.
83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino] benzene	48 FR 31460 (31462) (7-8-83)	Do.
83-876	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	do	Do.
83-913	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32361 (32363) (7-15-83)	Oct. 1, 1983.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted) (substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36647 (36648) (8-12-83)	Oct. 14, 1983.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	do (8-12-83)	Do.
83-1012	Generic name: Bis(sulfophenylchlorotriazineaminosulfophenylazo) hydroxyaminodisulfonaphthalene	do	Oct. 24, 1983.
83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl]derivative.	48 FR 36647 (36649) (8-12-83)	Do.
83-1029	Generic name: Substituted heterocycle	48 FR 37699 (8-19-83)	Nov. 3, 1983.
83-1033	Generic name: C_{6-8} carboxylic acid	48 FR 37699 (37700) (8-19-83)	Dec. 8, 1983.
83-1157	Generic name: Substituted oxirane	48 FR 41638 (41642) (9-16-83)	Feb. 2, 1984.
83-1222	Generic name: Substituted alkyl halide	48 FR 43397 (43399) (9-23-83)	Do.
83-1227	Generic name: Perhalo alkoxy ether	do	Do.
83-1228	do	do	Do.
83-1229	do	do	Do.
83-1238	Generic name: Substituted anthraquinone	48 FR 43397 (43400) (9-23-83)	Dec. 9, 1983.
84-7	N, N, N',N'-tetraglycidyl-1,3-bisaminomethyl cyclohexane	48 FR 46851 (46853) (10-14-83)	Dec. 21, 1983.
84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Jan. 3, 1984.
84-17	Generic name: Substituted heterocyclic metal complex	do	Mar. 1, 1984.
84-18	1(1,1 dimethylethoxy)-propan-2-ol	do	Jan. 6, 1984.
84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48866) (10-21-83)	Mar. 1, 1984.
84-50	do	48 FR 50951 (50952) (11-4-83)	Do.
84-64	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted-disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	48 FR 50951 (59053) (11-4-83)	Jan. 5, 1984.
84-99	Generic name: Hydroxylalkyl ether	48 FR 50944 (50945) (11-4-83)	Jan. 11, 1984.
84-108	Generic name: Trisubstituted heterocyclic disubstituted monocycle	do	Mar. 3, 1984.
84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50944 (50946) (11-4-83)	Mar. 1, 1984.
84-306	Benzoic acid, 2-((((2-((2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 930 (932) (1-6-84)	Mar. 22, 1984.
84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	do	Do.
84-341	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydro-omega-hydroxy-, ester with 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethyl-propanoate (2:1), di-2-propenoate.	49 FR 3523 (3525) (1-27-84)	May 3, 1984.
84-342	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]	do	Do.
84-343	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydroxy-omega-hydroxy-, ester with 2,2'-oxybis(methylene)bis[2-(hydroxymethyl)-1, 3-propane-diol 2-propenoate.	do	Do.
84-344	2-propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl]oxy]ethyl]-5-ethyl-1,3-dioxan-5-yl]methyl ester.	do	May 4, 1984.
84-358	Generic name: Polyaromatic urethane poly (unsaturated) ester	49 FR 6991 (2-24-84)	Apr. 26, 1984.
84-375	Generic name: Sodium salt of alkyl dithiocarbamates	49 FR 4980 (4981) (2-9-84)	May 11, 1984.
84-376	do	do	Do.
84-378	Generic name: Aromatic sulfonate of substituted heteropolycycle	49 FR 6160 (6161) (2-17-84)	Apr. 30, 1984.
84-379	do	do	Do.
84-380	do	do	Do.
84-382	2-propenoic acid 3-(2-hydroxyethoxy) 3-oxypropyl ester	do	June 11, 1984.
84-391	Generic name: Cuprate(5-), [5-hydroxy-2-[[4-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[(3-sulfophenyl)amino)]-1,3,5-triazin-2-yl]amino]-6-[2-hydroxy-5-sulfophenyl)]azo-1,7-naphthalene-disulfonato(7-)], pentasodium.	49 FR 6160 (6162) (2-17-84)	Apr. 27, 1984.
84-392	Generic name: Alkoxylated cycloaliphatic diamine	do	Do.
84-416	Dimethylbis(N-ethylacetamido)silane	49 FR 6991 (6993) (2-24-84)	May 11, 1984.
84-425	Generic name: Alkyl arylphosphonium salt	49 FR 7654 (7655) (3-1-84)	Apr. 13, 1984.
84-460	Copper ferrocyanide salt of C. I. basic green I and C. I. basic yellow I	49 FR 9013 (9015) (3-9-84)	May 9, 1984.
84-461	Copper ferrocyanide salt of C. I. basic blue II	do	Do.
84-462	Generic name: Substituted urethane ester	do	May 21, 1984.
84-464	Generic name: Halogenated aromatic ether	do	May 23, 1984.
84-467	Generic name: Hydrogen 2-[alpha-(2-hydroxy-3-sulfo-5-ethenylsulfonylphenylazo)-benzilidenehydrazino]-5-=sub=ituted, cuprate, sodium salt.	49 FR 9013 (9016) (3-9-84)	July 6, 1984.
84-482	Urea, condensate with poly[oxy(methyl-1,2-ethanediyl), alpha-(2-aminomethylethyl)-omega-(2-aminomethylethoxy).	49 FR 9954 (9955) (3-16-84)	June 1, 1984.
84-485	Generic name: Poly(oxy-1,2-ethanediyl) alpha-acyl-w-alkyl	49 FR 11009(11010) (3-23-84)	June 4, 1984.
84-490	Generic name: Substituted aminofluorane	do	Aug. 18, 1984.
84-491	Generic name: Substituted aliphatic acid halide	do	May 22, 1984.
84-492	Generic name: Substituted hydroxylamine	do	Do.
84-527	Generic name: Unsaturated amino alkyl ester salt	49 FR 13744 (13745) (4-6-84)	June 15, 1984.
84-537	Generic name: Unsaturated amino ester salt	do	Do.
84-558	Generic name: Carboxylated alkane diol	49 FR 14802 (4803) (4-13-84)	June 27, 1984.
84-569	Generic name: Polychlorinated alkylated aromatic hydrocarbon	49 FR 14802 (14804) (4-13-84)	July 2, 1984.
84-591	Generic name: Sodium salt of an alkylated sulfonated aromatic	49 FR 16833 (16835) (4-20-84)	July 5 1984.
84-597	Generic name: Blocked aliphatic polyisocyanate	do	July 19, 1984.
84-649	Generic name: Chromate, bis(substituted substituted phenolato)inorganic salts	49 FR 19110 (19113) (5-4-84)	July 20, 1984.
84-650	Generic name: Chromate, bis(substituted substituted substituted pyrazolyl), sodium	do	Do.
84-651	Generic name: Chromate, bis(substituted substituted naphthalenolato)sodium	do	Do.
84-660	Generic name: Substituted aryl olefin	49 FR 19110 (19114) (5-4-84)	July 17, 1984.

V. 96 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Indentity/generic name	FR citation	Date suspended
84-664	Generic name: Chromate, (substituted substituted phenolato) (substituted substituted substituted substituted phenolato) sodium.	49 FR 20060 (20061) (5-11-84)	July 20, 1984.
84-665	Generic name: Chromate, bis(substituted substituted substituted phenolato), sodium	do	Do.
84-669	Oleic, linoleic, palmitic acid ester of ethoxylated $C_{12}C_{14}$ alcohols	do	July 18, 1984.
84-673	Generic name: Chromate (substituted naphthalenolato) (substituted substituted naphthalenolato)inorganic salts.	do	July 20, 1974.
84-698	Generic name: 9,10-Anthracenedione sulfonic acid, sodium salt	49 FR 22128 (22129) (5-25-84)	July 25, 1984.
84-703	Oxo-octyl acetate	49 FR 22128 (22130) (5-25-84)	Aug. 9, 1984.
84-704	Generic name: Substituted alkyl arene	do	Aug. 3, 1984.
84-713	Generic name: Acrylated alkoxylated aliphatic polyol	do	Do.
84-742	Generic name: Cross-linked modified polyvinyl amide	49 FR 22865 (22866) (6-1-84)	July 23, 1984.
84-760	Generic name: Aromatic ester	49 FR 23916 (23918) (6-8-84)	Aug. 22, 1984.
84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	49 FR 23916 (23920) (6-8-84)	Do.
84-796	Generic name: Polyfunctional aziridine	49 FR 24782 (6-15-84)	Aug. 17, 1984.
84-809	Generic name: Polyesterimide resin	49 FR 24782 (24783) (6-15-84)	July 10, 1984.
84-814	Generic name: Polysubstituted polyol	49 FR 24782 (24784) (6-15-84)	Aug. 27, 1984.
84-816	Generic name: Organophosphonium salt	do	Aug. 24, 1984.
84-820	Generic name: Phosphonium salt	do	Aug. 29, 1984.
84-824	Generic name: Brominated aromatic	49 FR 25676 (6-22-84)	Do.
84-839	Generic name: Polyfunctional aziridine	49 FR 25676 (25677) (6-22-84)	Aug. 27, 1984.
84-858	Generic name: Polyalkylene glycol ether acrylate	49 FR 26800 (26801) (6-29-84)	Aug. 31, 1984.
84-1052	Generic name: Spent sulfite liquor, reaction product with an aromatic monomer	49 FR 33718 (33720) (8-24-84)	Aug. 28, 1984.
84-1071	Generic name: Alkoxy aluminum alkyaceto-acetate	49 FR 33718 (33722) (8-24-84)	Do.

[FR Doc. 84-27139 Filed 10-12-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 84-950; File No. 50343-CM-P-83 et al.]

Contemporary Communications Corp. et al.; Memorandum Opinion and Order

In re applications of Contemporary Communications Corporation; CC Docket No. 84-950, File No. 50343-CM-P-83 and BA-United Service Corporation, Inc.; CC Docket No. 84-951, File No. 50012-CM-P-84; for Construction Permits in the Multipoint Distribution Service for a new station at Orlando, Florida.

Adopted September 27, 1984.
Released October 5, 1984.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2A at Orlando, Florida. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 43 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated qualify and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the qualify and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Contemporary Communications Corporation, BA-United Service Corporation, Inc. and the Chief of Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

6. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-27150 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-830725AG; MM Docket No. 84-944 et al.]

Key Largo Broadcasters et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. John Raymond Meyers, et al, d.b.a. Key Largo Broadcasters; Key Largo, FL.	BPH-830725AG	84-944
B. Anita S. Magliola and Martha Sue Sellers; Key Largo, FL.	BPH-840109AH	84-945
C. Stanton Earl Mitchell; Key Largo, FL.	BPH-840217AB	84-946
D. Fredissa Hamilton and Ronald Baptist d.b.a. Monroe County Radio, Ltd.; Key Largo, FL.	BPH-840217AN	84-947
E. Beach Broadcasting Corporation of Florida; Key Largo, FL.	BPH-840217AQ	84-948
F. Key Largo Broadcasting Company; Key Largo, FL.	BPH-840217BI	84-949

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in this entirety in a sample standardized

Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A, C, and E
2. (See Appendix), C and D
3. Comparative, All
4. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

2. If a final environmental impact statement is issued with respect to (C) Mitchell and (D) MCR which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment—

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84–27153 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–830829AD; MM Docket No. 84–939]

Kingsbay Area Broadcasting Co. et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Carol B. Dowdy, *et al.* d./b./a. Kingsbay Area Broadcasting Company; Kingsland, GA.	BPH–830829AD	84–939
B. Albert E. Melcolm and Bernice Butler d./b./a. M & B Broadcasters; Kingsland GA.	BPH–840105AG	84–940
C. Willie J. Martin and Marcelle Meyers d./b./a. Kingsland Minority Broadcasters, Ltd.; Kingsland, GA.	BPH–840105AX	84–941

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), C
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Additional Issue(s) Paragraph

1. If a final environmental impact statement is issued with respect to C (Kingsland) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment—

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84–27154 Filed 10–12–84; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–830907AL; MM Docket No. 84–952 et al.]

Wilk Broadcasting et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Edward Joseph Wilk and Joseph Frank Wilk d.b.a. Wilk Broadcasting; Kankakee, IL.	BPH–830907AL	84–952
B. Mid America Auto-Video, Inc.; Kankakee, IL.	BPH–840214AH	84–953
C. Wayman Thomas Ward; Kankakee, IL.	BPH–840217AC	84–954
D. Jean A. Eastman; Kankakee, IL.	BPH–840217AF	84–955
E. Michelle Walker, Ronald Baptist, and Reinhard F. Korte d.b.a. Bourbonnais Broadcasting; Kankakee, IL.	BPH–840217AO	84–956

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue is question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), C
2. Air Hazard, All Applicants
3. Comparative, All Applicants
4. Ultimate, All Applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of this issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. If a final environmental impact statement is issued with respect to C (Ward) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment—

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84-27152 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-831012AB; MM Docket No. 84-942 et al.]

Wrightsville Broadcasting Co. et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Wimley Waters d.b.a. Wrightsville Broadcasting Co.; Wrightsville, GA.	BPH-831012AB	84-942
B. Dimar Broadcasting Co.; Wrightsville, GA.	BPH-840105AE	84-943

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-27155 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

October 5, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of these submissions are available from Doris R. Peacock, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

- OMB No.: 3060-0088
- Title: Annual Report of Licensees of Private Operational Fixed Microwave Radio Service Stations
- Form No.: FCC 402-A
- Action: Extension
- Respondents: Individuals, State or local governments, businesses (including small business) and non-profit institutions
- Estimated Annual Burden: 100 Responses; 500 HoursQ02

- OMB No.: 3060-0093
- Title: Application for Renewal of Radio Station License in Specified Services
- Form No.: FCC 405
- Action: Extension
- Respondents: Businesses
- Estimated Annual Burden: 100 Responses; 42 Hours

- OMB No.: 3060-0051
- Title: License Expiration Notice and Renewal Application Short Form
- Form No.: FCC 405-B
- Action: Extension
- Respondents: Individuals State or local governments, businesses (including small business) and non-profit institutions
- Estimated Annual Burden: 49,947 Responses; 2,497 Hours

- OMB No.: 3060-0089
- Title: Application for Land Radio Station License in the Maritime Services
- Form No.: FCC 503
- Action: Extension
- Respondents: Individuals, State or local governments, businesses (including small business) and non-profit institutions
- Estimated Annual Burden: 2,923 Responses; 2,923 Hours

- OMB No.: 3060-0053
- Title: Application for Consent to Transfer Control of Corporation Holding Station License
- Form No.: FCC 703
- Action: Extension
- Respondents: Individuals, State or local governments, businesses (including small business) and non-profit institutions
- Estimated Annual Burden: 1,000 Responses; 500 Hours

- OMB No.: 3060-0048
- Title: Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License
- Form No.: FCC 704
- Action: Extension
- Respondents: Businesses
- Estimated Annual Burden: 15 Responses; 120 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-27171 Filed 10-12-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

First Wisconsin Corporation, et al.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 1, 1984.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation,* Milwaukee, Wisconsin; to merge First Insurance Management, Inc., an indirect subsidiary of Applicant, into First Wisconsin Insurance Service, Inc., Milwaukee, Wisconsin, a direct subsidiary of Applicant, and to engage in general insurance activities as agent or broker in the sale of all types of personal and commercial insurance including but not limited to life insurance, health insurance and property and casualty insurance, pursuant to exemption G of Section 4(c)(8). The geographic area to be served will be in the States of Wisconsin, Michigan, Illinois, Indiana, Iowa, and Minnesota.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Westland Diversified Bancorp, Inc.,* Santa Ana, California, to engage through its subsidiary, CCB Business Credit, Inc., Pasadena, California, in making or acquiring loans and other extensions of credit secured by real and personal property, primarily to small and medium-size businesses and servicing such loans and extensions of credit.

Board of Governors of the Federal Reserve System, October 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27094 Filed 10-12-84; 8:45 am]

BILLING CODE 6210-01-M

Midwest Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 1, 1984.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Midwest Banchares, Inc.,* Popular Bluff, Missouri; to acquire 100 percent of the voting shares of Bank or Piedmont Piedmont, Missouri.

2. *New Era Bancorporation, Inc.,* Fredericktown, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of New Era Bank, Fredericktown, Missouri.

3. *Pulaski Bancshares, Inc.,* Dixon, Missouri; to become a bank holding company by acquiring 85.92 percent of the voting shares of State Bank of Dixon, Dixon, Missouri.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Southshares, Inc.,* Laredo, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of South Texas National Bank of Laredo, Laredo, Texas.

2. *Texas National Bancorp. Inc.,* Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Texas National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, October 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27095 Filed 10-12-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meetings; October

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the meeting of the following national advisory body scheduled to assemble during the month of October 1984.

Services Research Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee

October 16–17; 8:30 a.m.

Quorum Room

Sheraton Inn Washington Northwest

8727 Colesville Road

Silver Spring, Maryland 20910

Open—October 16; 8:30–9:30 a.m.

Closed—Otherwise.

Contact: H. Noble Jones, Executive Secretary; Parklawn Building, Room 10–42; 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

This **Federal Register** notice is late because the committee is considering restructuring and this delayed their schedule.

Dated: October 8, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84-27098 Filed 10-12-84; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Dermatologic Drugs Advisory Committee

Date, time, and place. November 5, 9 a.m., Conference Rm. E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in dermatologic disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. The committee will discuss: (1) ketoconazole (Janssen Pharmaceutica), (2) isotretinoin (Hoffman-La Roche), (3) lindane (Reed and Carnrick, Inc.), and (4) the use of prescription topical antibiotics in skin infections.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and Place. November 9, 9 a.m., Conference Rm. G & H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 11 a.m.; open public hearing 11 a.m. to 12 m.; open committee discussion, 1 p.m. to 4 p.m.; Neil M. Abel, Center for Drugs and Biologics (HFN–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4260.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. The committee will discuss: (1) the published nuclear pharmacy guidelines; the availability of the guideline was announced in the **Federal Register** of June 18, 1984 (49 FR 24949); (2) the possible radiation effects on various cell components when Indium in 111 is used in cell labeling procedures; (3) the need for pediatric dosage recommendations in the package inserts of certain radioactive iodine products.

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. November 13 and 14, 9 a.m., Conference Rm. 6, 6th Floor, Bldg. 31, National Institutes of Health, 9000 Rovkville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 13, 9 a.m. to 10 a.m.; open committee discussion, November 13, 10 a.m. to 5 p.m.; November 14, 9 a.m. to 12 m.; A. T. Gregoire, Center for Drugs and Biologics (HFN–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1869.

General function of the committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in obstetrics, gynecology, and contraception.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. On November 13, the committee will discuss the safety and efficacy of Gemeprost (new drug application (NDA) 19–196). On November 14, the committee will review protocols for evaluating drugs for the treatment of endometriosis.

Anti-Infective Drugs Advisory Committee

Date, time, place. November 30, 8:30 a.m., Conference Rms. D and E, Parklawn Building, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 5 p.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN–32), Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Open committee discussion. The committee will discus the use of oral acyclovir.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a

public hearing. Accordingly, all interested persons are directed to the guideline, as will as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, RM. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–27099 Filed 10–10–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82N–0058]

McNeil Pharmaceutical; Parafon Forte Tablets; Hearing on Proposal To Withdraw Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on the proposal to withdraw approval of the new drug application for Parafon Forte Tablets. The drug is intended as an adjunct to rest and physical therapy for relief of discomfort associated with acute, painful musculo-skeletal conditions.

DATES: Notices of participation shall be filed with the Dockets Management Branch no later than November 14, 1984. Submission of narrative statement by FDA's Center for Drugs and Biologics by January 14, 1985. Disclosure of data and information and submission of narrative statements by other participants by February 12, 1985. Prehearing conference on April 2, 1985, at 10:00 a.m.

ADDRESSES: Written notices of participation, disclosures, and statements to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions should be identified with docket number 82N–0058 and clearly labeled "Parafon Forte Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In a notice (DESI 11300) published in the **Federal Register** of September 11, 1969 (34 FR 14299), the Food and Drug Administration (FDA) evaluated the effectiveness of certain prescription drug products for use in the relief of acute, painful musculo-skeletal conditions. Included in this notice was Parafon Forte tablets containing chlorzoxazone 250 mg. and acetaminophen 300 mg., which is approved under a new drug application (NDA 11–529) held by McNeil Pharmaceutical ("McNeil"), Spring House, PA 19477.

The 1969 notice, part of the Drug Efficacy Study Implementation (DESI) program, stated that FDA had evaluated reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, together with other available evidence, and had concluded, among other things, that Parafon Forte was possibly effective for all of its labeled indications.

Subsequently, in a notice published in the **Federal Register** of August 14, 1974 (39 FR 29210), FDA announced the reevaluation of Parafon Forte from possibly effective to probably effective. This reevaluation resulted from new evidence that demonstrated that so-called "skeletal muscle relaxants" are effective in the treatment of discomfort associated with acute, painful musculo-skeletal conditions. FDA stated that studies of chlorzoxazone-acetaminophen combinations show, in some cases, a trend favoring the combination as compared with its components, but "in no case has the trend reached the usual requirements for statistical significance" (39 FR 29210). The agency required revised labeling with the following less-than-effective indication: As an adjunct to rest and physical therapy for the relief of discomfort associated with acute, painful musculo-skeletal conditions.

Responding to the 1974 notice, McNeil submitted several multi-clinic studies, five studies comparing Parafon Forte with other drugs, and five studies comparing Parafon Forte with its components. After reviewing McNeil's submission, the Director of the Bureau of Drugs (now the Center for Drugs and Biologics), in a notice published in the **Federal Register** on May 25, 1982 (47 FR 22599), concluded that he was unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 300.50 and 314.111(a)(5), and demonstrates the effectiveness of Parafon Forte. Accordingly, the Director proposed to withdraw approval of the NDA because of a lack of substantial evidence that the drug product has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

On June 23, 1982, McNeil requested a hearing for Parafon Forte, and, on July 26, 1982, filed data and other information in support of its hearing request.

In addition to McNeil, the following drug companies filed hearing requests in response to the 1982 proposal:

1. Purepac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207
2. Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220
3. Danbury Pharmacal, Inc., 131 West St., P.O. Box 296, Danbury, CT 06810
4. Lemmon Co., 850 Cathill Rd., Sellersville, PA 18960

The Commissioner is now granting McNeil's hearing request on the proposal to withdraw approval of the NDA for Parafon Forte. Approval of this NDA will be withdrawn unless there exists substantial evidence that Parafon Forte has the clinical effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling (21 U.S.C. 355(d), 21 CFR 314.111(a)(5)). In addition, because Parafon Forte is a fixed combination

prescription drug, such evidence exists for it only if "each component makes a contribution to the claimed effects and the dosage of each component (amount, frequency, duration) is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy as defined in the labeling for the drug" (21 CFR 300.50(a)). Accordingly, there are two questions to be addressed in this proceeding with respect to Parafon Forte and its generic versions:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug; and

2. Whether, on the basis of any such adequate and well-controlled investigations that exist, it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that the drug product in question satisfies the combination policy in 21 CFR 300.50 and will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof (21 U.S.C. 355(d)).

The parties to the hearing will be FDA's Center for Drugs and Biologics, McNeil, and the aforementioned manufacturers or distributors of products identical, similar, or related to Parafon Forte. The presiding officer will be Administrative Law Judge Daniel J. Davidson. In addition to the above-identified parties, any other interested person shall be permitted to participate as a nonparty participant (see 21 CFR 12.89), provided that each such person files a notice of participation pursuant to 21 CFR 12.45(a).

In accordance with 21 CFR 12.85, the Center for Drugs and Biologics has filed with the Dockets Management Branch copies of data and information contained in the Center's files that relate to the issues raised herein. The Center would normally file its narrative statement required by 21 CFR 12.85(a)(4) at the time when this notice issues. I am, under 21 CFR 10.19, modifying that requirement to the extent that the Center will be granted until January 14, 1985to make that submission. I have concluded that this modification of this regulation in the context of this proceeding does not prejudice any participant in the hearing and serves the ends of justice, is in accordance with law, and thus is authorized by section 10.19. The modification allows the FDA to advise the parties that a hearing is pending on this matter prior to the completion by the Center of the sometimes lengthy process of complying with all of the requirements of section 12.85.

Interested persons may obtain a copy of the Center's narrative statement, after it is filed, from the Dockets Management Branch at the address given above. Such persons may also examine the data and information relating to Parafon Forte now on file (with the exception of any data identified as confidential pursuant to the provisions of 21 CFR 10.20(j)) at the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

The prehearing conference will be held at 10:00 a.m. on April 2, 1985 in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. All participants are required to attend the prehearing conference and to be prepared to comply with the provisions of 21 CFR 12.92. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation shall be filed with the Dockets Management Branch no later than November 14, 1984. Participants other than the Center for Drugs and Biologics shall disclose data and information and submit their narrative statements pursuant to 21 CFR 12.85 on or before February 12, 1985. Pursuant to 21 CFR 10.20(j)(2)(ii), confidential material submitted by a participant must be segregated and clearly marked.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration.

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including formal evidentiary hearings conducted pursuant to Part 12 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the testimony of witnesses in the proceeding. Accordingly, the parties and nonparty participants to this hearing, and all other interested persons, are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on this hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)) and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set forth in this notice.

Dated: October 4, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84–27101 Filed 10–12–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 77N–0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators; Drug Efficacy Study Implementation; Revocation of Exemption and Notice of Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the temporary exemption for continued marketing of certain single-entity coronary vasodilators containing pentaerythritol tetranitrate (PETN). Under the exemption, the drugs have been allowed to remain on the market for continued study beyond the time limit scheduled for implementation of the Drug Efficacy Study. FDA is reclassifying the drugs to lacking substantial evidence of effectiveness for their labeled indication, prophylactic treatment of angina pectoris, and is offering an opportunity for a hearing on the proposal to withdraw approval of the new drug applications.

DATES: The revocation of the temporary exemption is effective October 15, 1984; requests for hearings on the proposal to withdraw approval are due on or before November 14, 1984; data in support of hearing requests are due December 14, 1984.

ADDRESSES: Communications in response to this notice should be identified with reference number DESI 1786, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, except requests for opinion of applicability are to be sent to the address listed below.

Requests for hearing, supporting data, and other comments (identify with Docket No. 77N–0240): Dockets Management Branch (HFA–305), Rm. 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–310), Rm. 216, Center for Drugs and Biologics, 5640 Nicholson Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drugs and Biologics (HNF–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of February 25, 1972 (37 FR 4001), FDA classified certain coronary vasolidators as possibly effective for the management, prophylaxis, or treatement of anginal attacks.

In a notice published in the **Federal Register** of December 14, 1972 (37 FR 22623), as amended July 11, 1973 (38 FR 18477), August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), FDA temporarily exempted certain single-entity coronary vasolidators from the time limits established for the Drug Efficacy Study Implementation (DESI) program, pending completion of clinical studies to determine effectiveness and a commitment from each manufacturer to conduct bioavailability studies on its products.

Recognizing that the development of adequate protocols for, and the conduct of, clinical studies was difficult and would necessarily require several years, FDA established a two-stage study requirements. Manufacturers would first need to show that these products were bioavailable (i.e., had some chance of ultimately being classified effective), and then demonstrate clinical effectiveness. Because there were no grounds for limiting marketing to new drug application (NDA) holders, the amended exempting notice established conditions not only for continued marketing of DESI drug products, but also for marketing of other products substantially the same as the DESI drug products manufactured by other firms, whether or not these had previously been marketed. Those conditions included dates by which to submit an abbreviated new drug application (ANDA) if the product was not already the subject of an approved NDA, to begin bioavailability studies, to obtain conditional approval of ANDA's, to submit bioavailability data, to begin clinical trials, and to report the results of clinical studies. If one drug sponsor was conducting clinical studies on a product, that was considered sufficient to permit marketing of all firms' products containing the same chemical entity in similar dosage forms provided each product met the other conditions. Because bioavailability is specific for an individual product, each firm was required to conduct a bioaviliability study on its own product.

The August 26, 1977 and September 15, 1978 notices states that FDA would initiate proceedings to withdraw (or refuse) approval of any product if data do not show that the drug is bioavailable. The September 15, 1978 notice further stated that if no person elected to conduct clinical studies on a particular kind of product, all such products would fail to meet a condition that established eligibility to remain on the market.

In a notice published in the **Federal Register** of April 23, 1982 (47 FR 17673), FDA revoked the temporary exemption for continued marketing of those single-entity coronary vasodilators that failed to comply with the conditions for marketing. That notice affected all products containing mannitol hexanitrate or trolnitrate phosphate because no sponsor was conducting clinical studies on any of the products. The notice affected specific products containing other active ingredients because no bioavailability data had been submitted for those products. The notice also reclassified the drug products to lacking substantial evidence of effectiveness, proposed to withdraw approval, and offered an opportunity for hearing on the proposal. In addition, the notice modified the bioavailability requirements for products that were conditionally approved on or after July 1, 1981 but before April 23, 1982, and for those that were conditionally approved after April 23, 1982.

In a notice published in the **Federal Register** of June 25, 1982 (47 FR 27613), FDA rescinded the April 23, 1982 notice insofar as it pertained to eight drug products that had complied with conditions under which a temporary exemption for continued marketing had been established. In a notice published in the **Federal Register** of June 29, 1982 (47 FR 28156), FDA withdrew approval of the new drug applications for products named in the April 23, 1982 notice for which no hearing was requested.

The products that are known by FDA to be subject to this notice are listed below and begin with products reviewed by the National Academy of Sciences/National Research Council (NAS/NRC):

DESI 1786

1. NDA 6–072; Peritrate Tablets containing 10 milligrams (mg), 20 mg, and 40 mg PETN; Parke-Davis, Division of Warner Lambert Co. (Parke-Davis), 201 Tabor Rd., Morris Plains, NJ 07950.

2. NDA 11–109; Peritrate SA (controlled release) Tablets containing 80 mg PETN (20 mg in the immediate release layer and 60 mg in the controlled release base); Parke-Davis.

3. NDA 12–311; Pentritol Tempules containing PETN; Armour Pharmaceutical Co., 303 South Broadway, Tarrytown, NY 10592.

4. NDA 12–748; Duotrate-45 Plateau Caps containing 45 mg PETN; Marion Laboratories, Inc., 10236 Bunker Ridge Rd., Kansas City, MO 64137.

The following products were neither reviewed by the NAS/NRC nor included in the initial notice of February 25, 1972, but the conclusions described herein apply to them:

1. NDA 16–457; Pentritol Tempules (controlled release capsules) containing 60 mg PETN; Armour Pharmaceutical Co.

2. NDA 16–470; Duotrate-30 Plateau Capsules containing 30 mg PETN; Marion Laboratories, Inc.

3. NDA 16–555; Pentaerythritol Tetranitrate Tablets containing 10 mg and 20 mg PETN; Zenith Laboratories, Inc., 140 LeGrand Ave., Northvale, NJ 07647.

4. NDA 16–625; Pentaerythritol Tetranitrate Tablets containing 10 mg and 20 mg PETN; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Coplague, Long Island, NY 11726.

5. ANDA 86–086; Pentaerythritol Tetranitrate Tablets containing 20 mg PETN; Danbury Pharmacal, 131 West St., Danbury, CT 06810.

6. ANDA 86–193; Pentaerythritol Tetranitrate Tablets (controlled release) containing 80 mg PETN; Bolar Pharmaceutical Co.

7. ANDA 87–528; Pentraspan Capsules (controlled release) containing 80 mg PETN; Vitarine, Division of Phoenix Pharmaceuticals, 227–15 North Conduit Ave., Springfield Gardens, NY 11413.

8. ANDA 87–529; Pentaerythritol Tetranitrate Capsules (controlled release) containing 80 mg PETN; Vitarine.

9. ANDA 87–640; Peritrate SR Capsules (controlled release) containing 80 mg PETN; Parke-Davis.

10. ANDA 87–683; Pentaerythritol Tetranitrate Capsules (controlled release) containing 80 mg PETN; Inwood Laboratories/Forest, 300 Prospect St., Inwood, NY 11696.

11. ANDA 87–690; Pentaerythritol Tetranitrate Tablets containing 20 mg PETN; Vangard Laboratories, 101–107 Sampson St., Glasgow, KY 42141.

Parke-Davis, Division of Warner Lambert Co., on September 15, 1981,

March 29 and April 13, 1984, submitted data intended to support the effectiveness of single-entity coronary vasodilator drugs containing PETN in the treatment of angina pectoris.

The Director of the Center for Drugs and Biologics, after reviewing all the data submitted, concludes that the data do not constitute substantial evidence for the effectiveness of the drug products listed above for the prophylactic treatment of angina pectoris. A discussion follows.

II. Effectiveness Data

Angina pectoris is considered to be the most common clinical presentation of chronic ischemic heart disease. The patient with angina pectoris generally experiences chest discomfort or pain brought on by exertion or other forms of stress. These episodes result from an imbalance between oxygen demand and supply to the myocardium. Thus angina pectoris occurs when there is an increase in myocardial oxygen demand coexisting with a fixed obstruction to coronary blood flow such as occurs in coronary heart disease. A variant form of angina pectoris may occur as a result of focal spasm of a coronary artery during normal myocardial oxygen demand. Coronary spasm also may affect the occurrence of angina pectoris in the presence of organic coronary artery stenosis, but the extent to which such spasm occurs or is important in the patient with stable angina pectoris due to coronary atherosclerosis is not clearly defined.

FDA recognized the difficulty of evaluating the bioavailability and clinical effectiveness of drugs in the prophylactic treatment of angina pectoris. The availability of guidelines developed by FDA's Cardiovascular-Renal Advisory Committee for investigating coronary vasodilators was announced in the **Federal Register** on August 26, 1977 (42 FR 43127).

Investigators needed a more objective means of evaluating therapeutic effectiveness than the anginal diary method, which relies upon the patient recording his angina attacks. With the development of exercise testing technology, a more sensitive tool was available. FDA considers a properly designed and conducted study using exercise tolerance testing (ETT) a reasonably objective means of evaluating a drug's effectiveness in preventing angina pectoris. Improvement of exercise tolerance is the principal modern measure of effectiveness of an antianginal drug. Studies using hemodynamic measurements may provide some evidence of bioavailability, and useful information regarding mechanism of action or time effect relationships, but as they do not involve the study of anginal pain, they cannot serve as primary evidence of effectiveness. Studies relying solely on change in anginal pain frequency or severity and rate of nitroglycerin consumption have in the past been considered an acceptable means of providing substantial evidence of effectiveness, but such studies are rarely carried out today in effort angina; they remain the principal means of measuring effectiveness in variant angina however, as that kind of angina cannot usually be produced by exercise.

The material submitted by Parke-Davis included a summary of preclinical studies of chronic toxicity, metabolism, and pharmacokinetics of PETN in animals. Reproduction and teratology studies were not conducted. Additional metabolic and pharmacokinetic studies conducted in humans were intended to demonstrate the drug's bioavailability. Because of the lack of suitable analytical chemical methods to determine blood and urine levels of the drug and its metabolites, studies of absorption, metabolism, and kinetics used various indirect methods.

A. Bioavailability Studies

Attempts to demonstrate the bioavailability of PETN involved physiologic measurements of parameters known to be influenced by other nitrates. The sponsor submitted results of eight randomized, double-blind (four were placebo-controlled) studies as crude estimates of bioavailability in humans. These studies evaluated urinary excretion of pentaerythritol metabolites by gas chromatography, pulse rate and blood pressure responses to single doses, and occurrence of vasoactive side effects (headache, lightheadedness, or dizziness) to determine that oral administration of two formulations of PETN (40 mg and 80 mg controlled release (PETN–SA)) are biologically active.

In general, these studies found pentaerythritol metabolites in the urine, indicating that some PETN was absorbed. Also, subjects receiving PETN had, compared to placebo, dose-related increases in pulse rate and the frequency of headache (a common side effect of nitrates), again indicating that PETN was absorbed and potentially therapeutically active. None of the urinary measures, however, bore any reproducible quantitative relationship to either dose or to any physiological parameter measured.

The sponsor carried out two placebo-controlled trials using digital (finger) plethysmography as an endpoint. This was the then accepted (by FDA) method of screening for pharmacological activity. In one study, involving 12 adult males and doses of 80 mg of immediate-release PETN, no significant differences from placebo were found. In another study involving 12 adult males and 160 mg of controlled release PETN, differences from placebo were detected only between 4 and 8 hours following administration.

The above studies provide evidence that some PETN is absorbed and is at various times and doses biologically active, but the studies give little quantitative, dose-response, or time-response information. Six hemodynamic studies, discussed below, submitted by Parke-Davis as evidence of clinical effectiveness, provide somewhat stronger evidence for the clinically meaningful bioavailability of PETN and of a clinical effect that might be useful in treating patients with agina pectoris.

B. Clinical Studies of Effectiveness Using Exercise Tolerance Testing (ETT)

1. *A Major Multicenter Controlled Trial.* Parke-Davis submitted the results of a large multicenter, randomized, double-blind, placebo-controlled parallel group study of the effects of single and multiple doses of PETN in 151 patients with stable angina pectoris. Effectiveness was evaluated on the basis of exercise tolerance testing.

a. *Study design.* The optimum dose of PETN for each subject was determined during an open dose-titration period by coupling the maximum dose (40, 60, or 80 mg) tolerated during titration, with the longest ETT time attained. To assure that patients had stable, reproducible ETT, subjects were not entered into the double-blind phase of the study unless baseline ETT times for each of the first five visits were within 20 percent of the average baseline ETT time for the first four visits. The study design called for a symptom-limited ETT before and at 2.5 hours after the first dose on day 1, day 14, and day 28 of PETN or placebo therapy.

Patients in the study had to have had angina pectoris for at leat 3 months, had to be known responders to sublingual nitroglycerin, and were required to have one of the following evidences of ischemic heart disease:

(1) Significant (at least 50 percent lumenal diameter decrease) obstruction of at least one major coronary artery.

(2) Documented previous (at least 6 months old) myocardial infarction.

(3) S-T depression on the electrocardiogram induced by exercise.

Subjects who were on beta-blockers when they entered the study were permitted to continue their usual dose. Other antianginal agents (except sublingual nitroglycerin) were not permitted. The ETT (Fox-Naughton exercise protocol) was individualized for each patient to include a warmup stage and a 3-minute exercise stage prior to the induction of angina pectoris. The endpoint for terminating exercise was symptoms or ischemic or ST depression, but what degree of depression represented an endpoint was not defined in the protocol.

Of 172 subjects who entered the study, 20 did not go on to the double-blind phase and are not included in the data analysis. Of these 20 patients, 11 were discontinued for reasons such as not reproducible ETT (3), side effects (4), medical problems (3), or withdrawal of consent (1). Nine of the 20 were discontinued because they failed to respond to PETN (presumably there was no improvement in the ETT performance). Of the 152 patients remaining, 3 were not considered in the data analysis because they did not consistently maintain the starting stage at baseline exercise. Another dropped out because of severe headache after the sixth day of the double-blind treatment. A total of 148 patients in the double-blind phase were considered in the efficacy analysis; although 5 failed to complete the study (2 receiving PETN and 3 receiving placebo dropped out after 14 to 19 days of double-blind therapy), available data on these subjects were included in the analysis. With respect to all subjects entering the double-blind phase, the two treatment groups apparently were comparable with regard to demographic characteristics, extent of disease (proportion of patients having previous myocardial infarctions), therapeutic and functional class, degree of impairment of specific functional daily living activities, and use of concomitant medication. There was no significant difference with regard to the PETN dosage regimens determined during the dose titration phase, and groups were said to be comparable with respect to ETT time and angina frequency at baseline.

An addendum to the original protocol indicated that a 20 percent increase in exercise tolerance with PETN during dose titration would be required for a subject to enter the double-blind phase of the study. In the firm's analyses of the efficacy data, however, three criteria were used to classify patients as having "acceptable variability" for analysis: (1) At least one of the postdose exercise times during dose titration increased by 15 percent compared to the predose ETT; (2) baseline exercise time on day 1 of the double-blind period did not exceed 15 percent of the mean predose exercise times during titration; and (3) each predose exercise time during the dose titration period was within 15 percent of their average. These criteria were not in the study protocol but were applied during analysis of the data. There were 38 subjects receiving PETN and 39 receiving placebo who were considered by the firm to have "acceptable variability" for analysis.

b. *Results.* The mean ETT times for the 148 patients were slightly greater, but not significantly so, for PETN than for placebo at all 3 testing days in the double-blind phase of the study. The mean percent improvement in ETT time at 2½ hours after PETN, compared to placebo, ranged from 6.2 to 8.8 percent. There was considerable variability in the ETT times on different testing days, particularly in the placebo group. Thus, considering all subjects completing the trial, PETN did not produce a significant increase in treadmill time at any time point.

In addition to comparing mean exercise times for the two groups, Parke-Davis compared the numbers of patients with some particular degree of improvement, e.g., there were more subjects whose postdose ETT times were increased by at least 15 percent on each day of testing with PETN than with placebo, with the difference achieving significance on the 15th and 28th days. Parke-Davis did not support the use of this arbitrary, *post facto* 15 percent cut off nor show that some other cut off (e.g., 10 percent of 20 percent) would give similar results. Such *post facto* groupings of data, made with study results in hand and not specified in the protocol, have a strong potential bias. The sponsor must show how analyst bias was minimized in such a circumstance (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

In a further analysis, also after the fact, Parke-Davis examined results in patients meeting their *post facto* criteria for "acceptable variability" in ETT; in this group the mean percent change (11 to 13 percent) in ETT time was slightly better with PETN than placebo on days 15 and 28, but failed to reach the .05 level of significance at any time. There were significantly ($p<.01$) more patients with "acceptable variability" who had at least a 15 percent increase in ETT time with PETN than with placebo at day 15 (65.8 percent vs. 35.9 percent) and at day 28 (52.6 percent vs. 28.9 percent). In this case, however, analyses were carried out using different criteria, 10 percent and 20 percent, as well. In these cases a significant advantage for PETN appeared only on day 28. The success criterion thus affects the outcome.

When the data from the individual centers are analyzed there are inconsistencies in the results among centers. Parke-Davis performed a separate analysis from the data on patients with "acceptable variability" from the 4 centers with at least 10 patients in each group during the double-blind phase of the study. The trend favored PETN, with the results on day 15 being slightly more impressive than those on day 28. However, this analysis excluded from consideration a fifth center that had 19 subjects in which mean exercise performance was less than PETN than with placebo at days 15 and 28. When the mean percent change in ETT time for all of the subjects in these five centers is analyzed, the exercise performance with PETN is worse than placebo in three centers, and better than placebo in two centers, in at least two of the three observation periods. Among the individual centers there are considerable differences in the magnitude of improvement in ETT time with PETN (ranges from 5 to 39 percent), and inconsistencies in the times showing improvement. Thus, not even a majority of the larger centers show a trend favoring PETN over placebo in improvement of ETT time. There is not a consistent pattern among centers favoring PETN over placebo.

There were only 33 subjects on PETN and 25 on placebo considered to have adequate records for data analysis with respect to the angina diary portion of the study. Although there was a trend in favor of fewer anginal attacks in the PETN group, the difference from placebo was not significant.

Hemodynamic changes were evaluated largely from the dose-titration phase of the study. All subjects in this phase received PETN, then heart rates and blood pressures were measured at 15, 30, 60, 90 and 150 minutes posttreatment. There were slight differences in the treatment groups at baseline but in both groups the active drug tended to lower slightly systolic blood pressure and to increase heart rate. The differences from baseline in these parameters were significant at some points, but differences from placebo were not impressive and statistical significance was not claimed in the information submitted by Parke-Davis.

The response (increases in heart rate and decreases in systolic blood

pressure) to the three doses of PETN in the patients that entered the double-blind phase was evident by 15 minutes and peaked between 45 and 150 minutes posttreatment. The changes for the different doses of PETN were similar, and fail to demonstrate clearly a dose-related response. Moreover, the mean data from placebo administration demonstrated a response similar to that from PETN treatment; the decrease in systolic blood pressure with placebo was as impressive as the response to 40 mg PETN, while the response to 80 mg PETN was somewhat greater.

The most common side effect in all 151 patients who received PETN was headache (22 percent of PETN patients compared to 8 percent of placebo patients, $p < .05$). A greater percentage of headaches was reported in patients on concomitant beta-blocker therapy. Dizziness was reported in 8 percent of PETN patients, compared to 32 percent of placebo patients. It is not clear whether dizziness or lightheadedness was associated with hypotension. There were no significant differences between PETN and placebo in terms of laboratory analysis of biological specimens. In addition, when information is considered about the subjects with side effects who were dropped from the study during the dose-titration phase, there was a 3.4 percent incidence of hypotension with 40 mg (the first dose) PETN. One subject developed circulatory collapse after the 80 mg dose of PETN (blood pressure dropped from 150/80 to 80/50 at 15 minutes posttreatment and the patient fainted).

Parke-Davis concludes from this study that 80 mg PETN four times a day is safe and effective in the acute and chronic treatment of patients with AP.

c. *The Director's conclusions.* The Director finds, however, that treadmill times (the principal measure for judging effectiveness of antianginal drugs) of all subjects completing the double-blind portion of the trial show no significant difference between PETN and placebo. In this trial, treadmill time was measured only at 2½ hours after dosing, the time of the expected peak effect of the drug and a time most likely to demonstrate difference from placebo. Apart from the failure to show a significant effect at any time, the study provides no data on the time course of effect, as would be needed to determine the appropriate dosing interval.

Furthermore, the other parameters generally used to support drug effectiveness, such as decrease in anginal attacks, improvement in ischemia on the exercise ECG, and hemodynamic changes did not show a significant difference between PETN and placebo treatment. The value of diary accounting of the frequency of angina attacks in this study is questionable, however, because fewer than 40 percent of the patients had complete diary records. In addition, there were important side effects in some patients who received PETN that could adversely affect patients with ischemic heart disease. This large controlled clinical trial thus fails to demonstrate that PETN is safe and effective for treatment of angina pectoris.

Even if the results had been more favorable to PETN, the study could not be considered an adequate, well-controlled clinical investigation for a number of reasons. The randomization schedule was not followed, as is evidenced by the numbering sequence of patients and the fact that the schedule had to be supplemented with additional numbers. Since 50 or more additional patients were unaccounted for, some of these may have been dropped from the study because they were nonresponders. It is not clear that the subjects were assigned to test groups in such a way as to minimize bias (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)).

The method of patient selection is further deficient in that it is not clear that all the subjects had established ischemic heart disease with angina pectoris. The entrance criteria included a history of angina pectoris (responsive to sublingual nitroglycerin) and abnormal ST on the electrocardiogram during ETT, but the protocol did not define an ischemic ST response on the electrocardiogram. Abnormal ST segments could have been caused by something other than ischemia (e.g., digitalis). To ascertain that the study population is diagnostically appropriate, subjects should have been required not only to have a history of angina, but also have reproducible chest pain with associated electrocardiogram changes on ETT and other confirming evidence of ischemic heart disease such as old myocardial infarct or significant obstruction on coronary angiogram. Although Parke-Davis indicated that 80 to 90 percent of the subjects in this trial terminated exercise because of anginal pain, only 26 percent of the PETN group and 30 percent of the placebo group had both angina and ST-segment depression on the pretreatment ETT on the first day of the double-blind phase. It is not clear how many patients actually met the eligibility criteria (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)).

While the exercise protocol appears to have been suitable, allowing for individualization of the workload according to the patient's ability to exercise, the point at which exercise should be terminated (indicated by symptoms or ECG abnormality) was not adequately defined. Investigators might have different reasons for stopping a test based on changes in ECG; furthermore, a test stopped because of ischemic ECG changes cannot be equated with one stopped because of chest pain. FDA pointed out this potential problem with the protocol to the firm when the study was being designed. The method of observation is not adequately explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

The analysis and evaluation of the data raise several questions. First, the number of patients per center varied greatly, with 5 centers having about 20 patients each while some centers had as few as 2 patients. The results were not consistent among the centers (e.g., at center 894, mean ETT was always better after placebo than after PETN, whereas at center 898, ETT was always better after PETN than after placebo). Results among centers were dramatically different, both in the directions and magnitudes of the differences between treatment groups. It is thus not clear that the data are suitable for pooling.

The second problem with the analysis of the data is the application of various *post facto* criteria (i.e., criteria that were not in the original protocol) to identify patients with "acceptable variability" for efficacy analysis and arbitrary success criteria (15 percent increase) to analyze response. The use of the "acceptability cretieria" results in a substantial reduction in the number of patients from some centers, excludes a large center in which placebo proved more effective than PETN, and leaves only 3 centers with more than 10 patients, but still does not produce a result favoring PETN significantly. The 15 percent increase analysis favors PETN but 10 percent or 20 percent criterion would again fail to show a significant advantage, indicating the susceptibility of such *post facto* analyses to arbitrary, potentially biased choices. Parke-Davis' analysis of the data in a manner different from that specified in the protocol is inevitably potentially biased, especially when it yields results more favorable to PETN than would have the originally proposed method of analysis.

Results that fail to show a statistically significant difference between treatments, along with the questionable methods of patient selection, uncertainties about the endpoints for the method of observation, and inappropriate analysis of the data

preclude a conclusion that the study provides substantial evidence of effectiveness of PETN for treatment of angina pectoris.

2. *The Giles, et al. Study.* Parke-Davis also submitted information about a randomized (by medication schedule), double-blind, placebo-controlled, crossover study of a single dose (40 mg or 80 mg) of PETN in 25 patients with stable angina pectoris (Giles, T. D., B. J. Iteld, A. C. Quiroz, and R. K. Mautner, "The Prolonged Effect of Pentaerythritol Tetranitrate on Exercise Capacity in Stable Effort Anginal Pectoris," *Chest,* 80:142–145, 1981). Effectiveness was measured by ETT performance, tested before and at 2½ and 4½ hours after a single dose of PETN on separate days; data on 10 subjects were analyzed for effectiveness.

Following a 3 to 5 day baseline placebo phase during which patients were required to have two or more ETT times reproducible within 20 percent on their tests, subjects were randomized into one of four treatment groups (PETN 40 mg-placebo; placebo-PETN 40 mg; PETN 40 mg-PETN 80 mg; PETN 80 mg-PETN 40 mg) for the double-blind phase of the study. Seven days separated the treatment periods of the double-blind phase. Entrance criteria included history of typical effort angina pectoris with five or more episodes per week with prompt releif of chest pain by sublingual nitroglycern. Additionally, subjects were required to have a positive ETT by the Fox-Naughton method (test terminated because of chest pain and ischemic electrocardiogram changes) or positive coronary angiography (at least 50 percent narrowing of one of more coronary arteries). Other antianginal agents, except for sublingual nitroglycerin, were not permitted during this study.

Of the 25 patients who entered the trial, 7 were not randomized to the double-blind phase of the study because of nonreproducible ETT times. One subject was unable to complete the double-blind phase because of hospitalization. Another had completed the study but was excluded from data analysis at the investigator's request for unknown reasons. Sixteen subjects remained for analysis, 10 having 40 mg PETN vs. placebo and 6 having 40 mg PETN vs. 80 mg PETN. Thd data analysis focused mainly on the 10 patients who received 40 mg PETN and placebo; the suitability of their angina pectoris diagnosis is supported by the fact that all stopped on the ETT with chest pain and had associated ischemic ST changes (electrocardiogram criteria not defined). Additionally, 8 of the 10 had either old myocardial infarction or previous coronary angiography showing obstruction of coronary arteries.

The mean exercise time in the 10 subjects was significantly ($p<.05$) better at 2½ and 4½ hours after PETN than after placebo therapy. There were on significant changes in blood pressure, heart rate, and double product (systolic blood pressure times heart rate) after PETN or placebo at 2½ and 4½ hours following dosing. There were no significant differences in the amount of ST-segment depressions on the electrocardiogram with the two treatments.

Data on the six subjects who received 40 mg vs. 80 mg PETN were not statistically analyzed because of the small sample size and because visual inspection of the data suggested that there were no important differences between the two doses of PETN. Three subjects appeared to have better ETT times on the 40 mg dose while the other three seemed to have better ETT times on the 80 mg dose.

Side effects that occurred in the 16 patints during PETN therapy included headaches, dizziness, and heartburn; similar symptoms, however, were encountered during placebo therapy.

While the design and methods in this small, single dose, controlled clinical trial appear adequate, in the absence of confirming results from other adequate and well-controlled studies, the Director cannot consider the results of a single small study (10 patients) adequate evidence of effectiveness of the drug in treatment of angina pectoris. Additionally, this study does not provide sufficient information on time course of effect to allow determination of dosing interval, does not provide dose-ranging information, and does not provide data on the long-term effectiveness of repeated doses of PETN over time. Questions have been raised about the importance of tolerance to the effects of nitrates over time, so that long-term studies are needed to determine the effectiveness of an organic nitrate drug as it is commonly used in clinical practice.

3. *The Hamilton and Ritchie Study.* Parke-Davis submitted data from a randomized (by study drug), double-blind, placebo-controlled, parallel group study comparing the effects of a single does of 40 mg PETN or placebo on left ventricular ejection fraction (measured by radionuoclide imaging of Technetium^{99} (Tc^{99}) labeled red blood cells), blood pressure, heart rate, and exercise duration (bicycle ETT) in 12 patients with ischemic heart disease (Hamilton, G., and J. L. Ritchie, "Double Blind Pilot Study Comparing the Effects of Peritrate and Placebo on Exercise Tolerance and Ejection Fraction in Patients with Ischemic Heart Disease," unpublished).

Rest and exercise ejection fractions, heart rates, and blood pressures were measured at baseline and 1 hour after administration of study drug. The subjects were said to have ischemic heart disease documented by previous catheterization (presumably obstruction on coronary angiography). The number of subjects who actually entered the study and the number who dropped out were not stated.

Exercise time was greater after PETN (128.5 seconds) than placebo (98.7 seconds) but the difference was not statistically significant ($0.05<p<0.1$). Systolic blood pressure was lower during submaximal exercise in the PETN group than in the placebo group but not significantly less ($p<.01$). The study thus fails to show a significant effect of PETN on exercise time.

The study is also deficient in a number of respects. First, although the study was randomized and blinded, the patient population is too small (six patients actually received PETN) for a parallel design study to yield meaningful results. Information about the method of subject selection is inadequate in that (1) it is not clear that the patients had angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)), (2) the number of subjects entering the study and the number who dropped out before the study was completed are not clearly stated, and (3) it is not clear that the subjects in the two study groups were comparable with respect to ETT time, systolic blood pressure, and ejection fraction at baseline (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)). The methods of observation, specifically the type of exercise protocol used, are not explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). The data analysis is inadequate in that information about variance (e.g., standard deviation) between the patients was not provided (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). These defects and the negative results, which did not show a significant effect of PETN compared to placebo, render the study incapable of providing evidence of effectiveness of PETN.

4. *The Amsterdam Study.* Parke-Davis submitted a clinical report and study protocol on a randomized (by treatment), double-blind, parallel group study of the effects of 3 dosage strengths (20, 40, and 80 mg) of PETN and placebo as measured by ETT before and 1, 3, and 4 hours after single doses in 22 patients with ischemic heart disease

(Amsterdam, E. A., "Acute Effect of Single Doses of Peritrate 20 mg, 40 mg, and 80 mg and Placebo on Exercise Tolerance and Hemodynamic Parameters in Patients with Ischemic Heart Disease and Angina Pectoris," unpublished).

Inclusion criteria included a classical history for angina pectoris, with additional evidence for ischemic heart disease of positive excercise tests (terminated because of pain and/or ischemic ECG changes) or a coronary angiogram showing 60 percent or more reduction in caliber of at least 1 major coronary artery. Antianginal agents other than sublingual nitroglycerin were not used. Apparently three patients dropped out of the study for unexplained reasons. The study groups consisted of six patients receiving 20 mg PETN, five receiving 40 mg, and six receiving 89 mg PETN, five receiving placebo. Baseline characteristics were comparable for age, weight, height, duration of illness, and mean ETT times.

There were no significant differences between any of the treatments in mean change in ETT times from baseline. The mean change in ETT time was numerically better at 1, 3, and 4 hours after 80 mg PETN than after placebo, but the difference did not achieve statistical significance. There was initially no difference between the 20 mg and 40 mg doses and placebo.

There were greater increases in mean heart rate and decreases in mean systolic blood pressure with all three dosage strengths of PETN than with placebo at 1 hour after therapy, but these differences were not significant.

Headache occurred in two patients receiving PETN and hypotension occurred in one patient receiving PETN; these are not uncommon side effects with nitrate therapy.

Parke-Davis concluded that all three dosage strengths of PETN caused detectable changes in the parameters measured, and suggested that the absence of statistically significant findings was due to the small number of patients in each treatment group and the large variability between patients. There is, of course, no way to determine, without additional patients, what a larger study would show.

Apart from its small size and the absence of significant findings with respect to ETT, there are a number of deficiencies that render the study inadequate as evidence of the drug's effectiveness. The absence of many data points (e.g., there are no data for one third of the patients on 80 mg PETN at the 4-hour posttreatment ETT) weakens the study considerably.

The method of subject selection was not entirely adequate in that it is not clear that all subjects had reproducible chest pain on ETT, and the criteria for evidence of ischemia on ECG were not defined (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). It is not stated that the study groups were comparable at baseline with regard to the main efficacy parameters (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)).

5. *The First Arce-Gomez Study.* Parke-Davis also submitted a copy of the published report of a randomized, double-blind, parallel group study comparing the effects of 80 mg PETN and 75 mg dipyridamole for 4 weeks in 24 patients with ischemic heart disease using angina diary methods and ETT (Arce-Gomez, E., et al., "A Comparative Study of the Anti-Anginal Effect of Two Coronary Vasodilators," *Archives of Institute of Cardiology of Mexico,* 45(1):98–105, 1975).

The study population, selected from 46 patients, consisted of 7 men and 17 women diagnosed with ischemic heart disease based on a clinical history of angina pectoris of at least 6 months duration (at least 7 attacks per week), a history of nitroglycerin use, and an ETT terminated because of pain and/or ischemic changes on the electrocardiogram. Subjects were randomized into 2 groups of 12 patients each; the groups were comparable at baseline in terms of various characteristics including frequency of pain and duration on ETT.

There were significant ($p<.01$) increases in mean ETT time and decreases in mean ST segment depression from baseline after PETN compared to no significant changes after dipyridamole. Standard deviations for both of these variables are relatively large; the PETN group in particular showed considerable variability at baseline (258.75±159.03 seconds for PETN vs 284.16±69.90 seconds for dipyridamole at baseline). There was a significant deacrease ($p<.01$) from baseline in the mean number of angina pectoris attacks during PETN therapy but not during dipyridamole therapy.

The study cannot be considered an adequate and well-controlled clinical trial for several reasons. No study protocol was provided and important information is absent from the report, such as whether the ETT's were symptom-limited tests and how long after dosing the ETT's were done. The methods of observation were inadequately explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

Furthermore, the study was not properly controlled. PETN was compared with a drug (dipyridamole) which has not been determined to be clinically effective for angina pectoris and, in fact, is capable of precipitating angina in some cases (the intravenous form of dipyridamole is used in conjunction with thallium imaging in coronary patients to precipitate ischemia). While it is true that exercise performance was better during the PETN phase of the trial than during the placebo run-in phase of the study, the run-in phase was only single-blinded and it is usual for exercise tolerance to improve over time in a study. A blinded concurrent control is needed for angina trials to minimize bias and provide an appropriate control (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

Additionally, adequate assurance is not provided that the patients selected are suitable for the purposes of the study. The majority of the subjects were women, while coronary disease is more common in the male population. Furthermore, women with chest pain syndromes who turn out not to have coronary disease at angiography are known to have a significant incidence of falsely positive electrocardiogram changes for ischemic heart disease on ETT. Since coronary angiography was not required for entrance into this trial, it is not certain that all subjects had ischemic heart disease (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). Because of the deficiencies described above, the Director does not consider this study substantial evidence that PETN is effective as an antianginal agent.

6. *The Second Arce-Gomez Study.* Parke-Davis also submitted a copy of the published report of two clinical trials in anginal patients who received 80 mg PETN (Arce-Gomez, E., et al., "Antianginal Effects of Pentaerythritol Tetranitrate," *Nouvelle Presse Medicale,* 9:248–291, 1980). The first trial was a double-blind, randomized, double-crossover study in 11 men and 20 women with stable angina pectoris (minimum of 7 episodes per week) whose performance on the treadmill was limited by chest pain and/or ischemic ST-segment depression. Methods included diary during, and ETTF at the end of, a stabilization phase (placebo run-in) and 4-week treatment phases with PETN and placebo. Average ETT time was better ($p<.001$) on PETN than placebo (562 versus 408 seconds). The amount of ischemic ST segment depression improved from baseline (from 1.2 millimeters (mm) to .7mm) with PETN therapy while the average amount of ST-segment depression did not change during placebo therapy. The frequency of angina pectoris attacks and nitroglycerin usage measured by the diary method improved more ($p<.01$)

during PETN than during placebo therapy.

The second trial with 12 patients similar to those in the first trial used diary during, and ETT at the end of, a placebo run-in and a 4-week active drug (PETN or dipyridamole 75 mg four times a day) phase. Patients receiving PETN had an increase ($p<.01$) in mean ETT time (258 versus 380 seconds) and improvement in ST-segment depression (from 1.15 to .8 mm) from placebo run-in. The number of angina attacks fell from 11 to 2 ($p<.01$) from baseline to PETN therapy. Data on the comparison with dipyridamole are not provided except in the summary at the end of the report that states that PETN was more effective than dipyridamole in decreasing the number of angina attacks and nitroglycerin usage.

This brief report is deficient under FDA's regulations in many respects. From the scant information provided, the method of subject selection was inadequate: (1) It appears that either chest pain or ischemic ST-segment depression was defined as a positive ETT test, rather than requiring both as evidence of ischemic heart disease; (2) additional evidence such as previous myocardial infarction or positive coronary angiogram should have been required; (3) nearly half of the patients selected were women, who would be more likely to show evidence for ischemia on an exercise electrocardiogram in the absence of demonstrable obstructive disease on coronary angiography. There is no information on the selection of patients for the second trial. The diagnostic suitability of the populations in the two trials is thus not assured (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). There is a possibility that the selection was biased in a way that would influence the results (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)).

The analysis and evaluation of data are deficient in that no listing of individual data nor any standard deviations are provided and it is not clear what statistical methods were used (21 CFR 314.111(a)(5)(ii) (*a*)(*5*)).

Furthermore, the second study is not adequately controlled for reasons described above for the 1975 comparison of PETN and dipyridamole by Arce-Gomez. In addition, important information is missing from the report, such as, (1) as comparison of the results on the ETT at the end of the various phases of the first trial, and (2) the duration of time between the last dose of medication and the ETT; because only one ETT was done on a given study day, the trial provides no information for determining the time course of PETN's effect.

C. Hemodynamic Studies

Parke-Davis submitted 6 studies involving invasively and noninvasively measured hemodynamics in a total of 89 subjects. Each of the studies suffers from major problems that weaken the evidence that PETN has useful hemodynamic effects. While these studies tend to indicate that PETN can lower abnormally elevated pulmonary wedge pressure, decrease myocardial work demands, and improve ventricular function at some time points after some doses of PETN, there are no adequate dose ranging and time course effect studies using hemodynamic parameters. The studies could not, in any event, provide substantial evidence of effectiveness of PETN in angina pectrois as they studied neither exercise tolerance nor spontaneous anginal events.

1. The first study (Shah, P.K., et al., "Hemodynamic Effects of Peritrate in Congestive Heart Failure," *Clinical Pharmacology Therapeutics*, 28:436–440, 1980) was an open-label, baseline-control investigation of the hemodynamic effects of a single dose of 80 mg PETN in 18 subjects with congestive heart failure. Ten of the subjects had coronary heart disease but only one subject had angina pectoris. Right heart pressures (using the Swan-Ganz Catheter) and cardiac output (themodilution) were measured at 3 or more 20-minute intervals before drug administration and at 30-minute intervals for up to 5½ hours after drug administration. Radionuclide ventriculography was performed in nine subjects from 1½ to 2 hours posttreatment to evaluate ventricular ejection fraction. The investigator concluded that a single oral dose of 80 mg PETN was associated with significant (p less than .05) and sustained changes in all hemodynamic parameters measured except heart rate and left ventricular ejection fraction for up to 5 hours after dosing. In particular, pulmonary capillary wedge pressure that was abnormally high, 27 mm Hg, at baseline (reflecting the severity of the disease) decreased significantly ($p<.05$) to 18 mm Hg. However, the clinical summary indicates that there were several missing data points; there were only 11 subjects who had measurements as long as 5 hours posttreatment. No adverse reactions were reported.

The Director does not consider the baseline control optimal because the measurements might have changed with time, or due to some other factor besides PETN (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). The study is not blinded, introducing the possibility of investigator bias in at least some of the measurements, and there is no information about two subjects who were not included in the data analyses. Because the study was conducted in patients with congestive heart failure instead of angina pectoris, the subjects may not be considered suitable for the purpose of the study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). Despite these deficiencies the study provides some evidence of a favorable hemodynamic effect of PETN. The decrease in pulmonary capillary wedge pressure would be expected to be useful in patients with angina pectoris because such patients have an increase in this parameter during chest pain.

2. The second study (Amsterdam, E., et al., "Sustained Reduction of Elevated Left Ventricular Filling Pressure in Cardiac Failure by Oral, Long-Acting Nitrate Therapy," *Journal of Clinical Research*, April 26, 1978 (abstract) and *Nouvelle Presse Medicine*, 9:2443–2446, 1980) had two phases. The first consisted on an open-label phase designed to estimate the time course of the drug's effect in four patients with congestive heart failure. Right heart pressures and thermodilution cardiac output were measured twice (20 minutes apart) at baseline and then every 20 minutes for the first hour, then at 30-minute intervals until the hemodynamics returned to baseline after a 40 mg dose of PETN (one patient received 60 mg). The subjects had significant ($p<.05$) mean changes in some parameters for up to 210 minutes.

The second phase was a randomized, double-blind, placebo-controlled crossover study in which hemodynamics of eight patients with congestive heart failure were measured at the same time intervals as the first phase after each study drug. If no hemodynamic effect was observed within 1 hour, the second limb of the crossover was begun and measurements were continued until parameters returned to baseline. While there were no significant changes from baseline in the hemodynamics parameters following placebo, there were significant ($p<.05$) changes following PETN. For example, pulmonary capillary wedge pressure was significantly lower than baseline at all time points for up to 5 hours. The peak reduction occurred 60 minutes posttreatment. The investigators concluded that the study demonstrated the effectiveness of PETN in changing the hemodynamics of patients with congestive heart failure.

The Director considers this small study deficient for several reasons. Like the Shah study, the patients had congestive heart failure instead of

angina pectoris, raising questions about the suitability of the subjects for the purpose of a study intended as evidence of effectiveness in prophylactic treatment of angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). Furthermore, the lack of individual data and the absence of standard deviations in the analysis make evaluation of the study difficult (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). A number of data points apparently are missing; there are no comparable time points for placebo and PETN after 1 hour because placebo therapy was reported for only 1 hour. In addition, the differences in the values for the various parameters in the clinical report compared to the published article need explanation. While the report lacks the details that permit scientific evaluation (21 CFR 314.111(a)(5)(ii)(*c*)), it provides some evidence of a possible mechanism of action for PETN that would be useful in angina pectoris patients.

3. The third study (Winsor, D., T. Winsor, B. Krohn, and J. Bernett, "Noninvasive Measurement of the Effect of a Coronary Vasodilator on Cardiac Work," *Angiology*, 33:393–400, 1982) was a double-blind, placebo-controlled crossover investigation in which hemodynamic measurements were made in 10 patients with coronary heart disease using radionuclide techniques to evaluate the effects on cardiac work at 1 hour after a single dose of 40 mg PETN. Tc^{99} was used to measure left ventricular ejection time on 2 separate, nonconsecutive days.

The measured indicators of cardiac work were significantly less ($p<.05$) after PETN than after placebo, with the exception of heart rate and diastolic tension time index, which were essentially the same. In the case of double and triple product measurements (heart rate X systolic blood pressure X left ventricular ejection time), the values were consistently lower after active drug than after placebo. Similarly there were significant increases in mean diastolic period and the ratio of diastolic to systolic tension time index that were interpreted by the investigator to indicate reduced coronary oxygen demand as a result of PETN therapy.

The study is deficient in several ways. Although the patients were said to have coronary heart disease, it is not clear that they were suffering from angina pectoris and no information is provided about their selection and whether any dropped out. Adequate assurance that the patients are suitable for the study is thus not provided (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)).

In addition, there are several concerns about the methods. It is not clear why the radionuclide technique was used to measure left ventricular ejection time (which can be readily, and probably more accurately, measured by other means), and apparently was not used to measure ejection fraction and cardiac volume (the usual information obtained from Tc^{99} imaging). More details are needed about the determination of the systolic and diastolic time intervals, which require millisecond accuracy. The investigators did not state whether these measurements were made with the patient supine, sitting, or upright; studies (e.g., Epstein, *Circulation*, 43:269, 1971) on other nitrates indicate that upright posture tends to bring out the decrease in blood pressure and increase in heart rate that patients on these drugs are likely to encounter in daily living. The methods of observation and recording of results are thus inadequately explained (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). Conclusions regarding the effect of PETN on cardiac work cannot be drawn from the information provided. The Director considers the study to provide background information about a possible mechanism by which PETN may be effective in treatment of angina pectoris.

4. The fourth study (Winsor, D., T. Winsor, B. Krohn, and J. Bernett, "Pharmacological Effects of a Nitrate Coronary Vasodilator on Cardiac Perfusion and Function, Measured Semi-quantitatively," *Angiology*, 33:617–624, 1982) was a randomized, single-blind, placebo-controlled, crossover trial using radionuclide imaging techniques to evaluate the effects of a single dose of 40 mg PETN in six patients with ischemic heart disease. The study methods included exercise (bicycle for 4 minutes at 80 watts workload) and Thallium-201 (Th-201) myocardial perfusion imaging (done with patient supine) at 45 minutes posttreatment. Three to 7 days washout was allowed between PETN and placebo administrtion. The myocardium was divided into four segments; the two segments in each patient showing the poorest myocardial pefusion were chosen for study and comparison to a well-perfused reference area in each patient. Thus, there were 12 segments of myocardium available to compare perfusion with PETN and placebo therapy. There was a significant increase ($p<.001$) in the mean perfusion density with PETN compared to placebo (0.96 ± 0.07 vs. 0.63 ± 0.05).

Gated blood-pool images (Tc^{99}) were used to evaluate left ventricular volumes 55 minutes after PETN and placebo (10 minutes after the same bicycle exercise as above). Left ventricular ejection fraction was compared from these images during therapy with PETN and placebo. In a manner similar to that discussed above, the two segments in each patient showing the poorest wall motion were chosen for comparision of the effects of the two study drugs. The mean left ventricular ejection fraction showed a significant increase ($p<.01$) with PETN compared to placebo (55 percent ±9 vs. 49 percent ±8).

Of the 12 segments chosen for study in the 2 isotopic methods, there were 9 segments that were the same for the 2 methods. Of these, eight showed increase in perfusion by Th-201 imaging and improvement in wall motion by Tc^{99} imaging with PETN compared to placebo. With regard to the difference between regional ejection fractions with PETN and placebo, there was a significant increase ($p<.005$) in mean wall motion with PETN compared to placebo (36.3 ± 8.1 vs. 51.3 ± 7.8). The investigators conclude that PETN is capable of significantly increasing perfusion and function in the ischemic myocardium in these patients.

This small study is deficient in several respects. The single-blind design allows the possibility of bias on the part of the analysts of the data. A blinded interpretation of the isotopic studies would have strengthened the evidence that PETN improves ischemia of the myocardium (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

Furthermore, there are questions about the methods of observation and recording of results. It is customary to compare myocardial perfusion in the resting and exercise states to reveal exercise-induced perfusion defects. Because this study did not include perfusion in the resting state, it is not known how much of the perfusion defects were truly exercise-induced ischemic defects and how much represent areas of previous infarction. It is also unclear whether the exercise was sufficient to induce angina pectoris and increase the heart rate to the degree required for adequate Thallium perfusion. The reason for selecting certain areas for study, rather than evaluating all areas for perfusion defects, needs to be explained. Additionally, it is common to perform the gated blood pool imaging of the left ventricle during exercise, rather than waiting until the patient may have recovered from his ischemia, as in this study. It is not clear that the segments being evaluated are the ones having reversible ischemia, since old infarcts would also give wall motion abnormalities. Because of these questions about the methods of observation and recording of results, and without further evidence of the

reproducibility of the methods, the Director cannot conclude that the differences observed represent differences caused by the drug (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

5. The fifth study (Winsor, T., "Acute and Chronic Effect of Administration of Peritrate 40 mg vs. Placebo to Hypertensive Patients," summary submitted by Parke-Davis) consisted of two phases to evaluate noninvasively the effects of single and multiple 40 mg doses of PETN on heart rate and blood pressure at rest (sitting and standing), during, and 2 minutes after isometric hand grip exercise in 23 patients with systemic hypertension. The first phase began with an open-label baseline-controlled single dose study in all subjects with cuff blood pressure and pulse rate measured 1 hour after administration of 40 mg PETN. The first phase then continued with a randomized, double-blind, placebo-controlled, triple crossover trial; each treatment period was 28 days. Parameters were measured every 14 days before and 1 hour after the first dose (four times a day dosing) of study drug. At one hour after the first dose of PETN, systolic blood pressure (mean change in standing blood pressure minus 35 mm Hg) and diastolic BP (mean change in standing BP minus 8.9 mm Hg) decreased significantly from baseline($p<.05$); heart rate (mean change standing 10.9 beats per minute) increased significantly from baseline. In the randomized portion of the first phase of the trial, similar acute effects were seen after each dose of PETN, while no such effects were noted after placebo. The predose measurements on the various study days did not differ significantly from the baseline mearsurements, indicting there was no significant effect from PETN 12 hours or more after dosing.

The second phase of the study involved a new randomization for 10 subjects to continue an additional double-blind, placebo-controlled, crossover. The parameters were measured 2 and 3 hours after the first dose on the last day of each 28-day treatment period. Although significant differences from baseline occurred in some parameters (e.g., systolic blood pressure), the investigator was reluctant to draw conclusions from this phase because of the small number of subjects.

The study cannot, on its face, provide evidence of effectiveness in angina, as angina was not studied. Moreover, the subjects in the study had hypertension, and are not suitable even for reaching conclusions about hemodynamic effects of PETN in ordinary angina patients. At best, the study presents evidence that PETN influences heart rate and blood pressure in a manner similar to other nitrate preparations, at least for 1 or 2 hours after dosing.

In addition, the methods of observation and recording of results were deficient in several ways (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). The lack of blinding and the use of a baseline control weaken the results from the first part of the first phase of the trial. The study provides no information on dose ranging and time course of effect because measurements were made only at time points when the peak effect of the drug would be expected. The data analysis is incomplete (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)) because mean values are not accompanied by standard deviations, individual data are not provided, and one cannot determine whether there were significant changes during PETN compared to placebo.

6. The sixth study (Arce-Gomez, E., et al., "Determination of Ejection Fraction by Echocardiography in Patients Treated with PETN," *Nouvelle Presse Medicale*, 9:248–261, 1980) appears to be a single-blind, placebo-controlled, crossover study in which 20 patients with angina pectoris had M-mode echocardiography sometime after 30 days of treatment with PETN (80 mg, twice a day) and with placebo. There also was a single dose, baseline-controlled study in 10 patients with echocardiograms before and 1½ hours after a single 80 mg dose of PETN.

Systolic and diastolic dimensions of the left ventricle were measured and left ventricular volumes were calculated. A total of 15 of the 20 patients improved their ejection fractions while 5 decreased that parameter. As a whole, the group increased the ejection fraction with PETN therapy, compared to placebo; the statistical significance of this decrease is not stated. The 10 subjects in the second part of the study showed a decrease ($p<.01$) in mean left ventricular diastolic volume (165.3 ± 51 vs. 127.9 ± 37.18). The investigators concluded that PETN favorably changes parameters that influence oxygen consumption and possibly oxygen supply to the ischemic myocardium.

The study is deficient in several ways. Like the other studies described in this section, it is not a sutdy of the effects of PETN on angina pectoris. Because the order of treatment was not randomized and subjects always received placebo first, it is impossible to distinguish the effect of the passage of time from the effect of the drug; the control is thus inappropriate (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

Moreover, it is not clear that the patients selected are suitable for the study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). There were 12 women and only 8 men, an unusual proportion for a study of coronary heart disease, and there was no entrance requirement of a positive coronary angiogram or previous myocardial infarction. The method for selecting the 10 patients for the second part of the study is not explained.

In addition, there are concerns about relying upon M-mode echocardiography for measuring left ventricular function and volumes in patients with coronary disease. Ischemic heart disease influences segments of the myocardium rather than equally affecting all portions. Because M-mode echocardiography has an "ice pick effect" in viewing the myocardium, this method may not provide an accurate assessment of ventricular function in this condition. As noted by the investigators, the correlation between angiographic left ventricular ejection fraction and the parameter calculated using measurements obtained by echocardiography is not very satisfactory. The methods of observing and recording the results are not adequate (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

Because there is no discussion of statistical methods and the levels of significance for difference seen in important measured parameters are not provided, the analysis is dificient (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

D. Pre-1970 Studies

Parke-Davis submitted copies of the published reports of several studies done in the 1960's using earlier technology for evaluating effectiveness of antianginal agents.

Four studies by H.I. Russek, et al. (*Journal of the American Medical Association*, 157:206–211, 1953; *American Journal of Medical Science*, 229:46–54, 1955; *Circulation*, 12–169–175, 1955; *American Journal of Medical Science*, 239(4):478, 1960) were apparently of an open-label design in which patients on PETN treatment were compared with their pre-therapy status. the effectiveness of 10 mg to 20 mg PETN was evaluated in from 8 to 21 patients as the ability of the drug to influence ischemic ST segment changes on the ECG induced by exercise (two-step test) at various times after drug administration. The investigators concluded that a single does of 10 to 20 mg PETN was effective in improving the ECG responses to exercise for as long as 5 hours after treatment.

These four studies are not adequate and well-controlled investigations for a

number of reasons. First, the open-label design does not in any way minimize potential subject and investigator bias, which could affect the way the exercise tests were conducted and interpreted. The baseline-control design does not provide a comparison of the drug-treated group with an untreated control followed for a similar period of time; so that it cannot account for spontaneous changes. The control used does not permit a valid quantitative comparison (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). It is not clear that the subjects are suitable for the purpose of the studies, as a large proportion of the patients are without additional supportive evidence (that would have been provided by coronary angiography) of coronary heart disease beyond the history and the ischemic ST changes induced by exercise (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). The method used to assess effectiveness as an antianginal agent is inadequate because other drugs and conditions besides ischemic heart disease influence ST segments, such as digitalis and left ventricular hypertrophy; insufficient information is provided to depend on the ST segment changes as an effectiveness parameter for treatment of angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)). Moreover, information about the analysis and evaluation of data is inadequate in that there are little actual data presented and no evidence of statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). For the reasons stated above, the four studies by Russek and colleagues cannot be considered as substantial evidence of the prophylactic effectiveness of PETN in angina patients.

Parke-Davis submitted 13 other reports of clinical trials conducted prior to 1970 that utilized exercise testing to some extent in their study protocols. While there is some evidence favoring the usefulness of PETN, the limitations of these studies, most of which were not adequately controlled, preclude their consideration as substantial evidence of PETN's effectiveness in treating angina pectoris. Only the following two studies appear to utilize techniques of randomization to eliminate potentially biased assignment (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)), and used blinding and placebo controls to minimize observer and analyst bias (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

A randomized, double-blind, crossover, placebo controlled study by B.L. Brofman (scientific exhibit at American Medical Association, 1963) of PETN–SA 80 mg in 32 patients appears to have been better controlled than some of the others. The results of one part of the crossover showed the effects of PETN equal to those of placebo but the second part showed PETN significantly better than placebo for relief of angina pectoris. However, the report contains little or no information about the exercise methods or results that would permit scientific evaluation (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

The randomized, double-blind, placebo-controlled, crossover study of P. Johnson, et al. (*Angiology*, 13(10):481–487, 1962) in 15 patients also appears to have been better controlled than most of the others. This study, however, used radioisotope methods to evaluate hemodynamic parameters and cardiac output but did not determine the effectiveness of PETN in relieving angina pectoris or improving exercise tolerance (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

The remaining studies have even more serious deficiencies. They are described below.

1. M. Plotz (*New York State Journal of Medicine*, 52:2012–2015, 1952) conducted a double-blind, placebo controlled, crossover angina diary study using 10 to 15 mg PETN three times a day in 30 patients; 24 of the 30 patients were considered to benefit from PETN with reduction in angina attacks. However, the lack of confirming evidence of ischemic heart disease and failure to randomize the subjects to treatment makes the method of subject selection deficient (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)). The data provided in the report are insufficient to permit the study to be considered as evidence of the effectiveness of PETN (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

2. T. Winsor and P. Humphreys (*Angiology*, 3(1):1–14, 1952) conducted a baseline-controlled study comparing PETN with placebo and other drugs in 250 subjects (125 having angina and 125 having pain from other causes), some of whom were given a placebo as well; diaries showed that 78.4 percent of subjects had improvement in chest pains with PETN. There was an average improvement of 50 percent in the exercise duration (number of steps) tolerated before angina with PETN compared to placebo in 10 patients. Five of six patients who did sit-ups had less ST depression with PETN than placebo. Patients were not randomized to treatments, and the main comparison was of the treated state to the baseline. This design, lacking a concurrent control, cannot distinguish drug effect from spontaneous improvement, which is common in angina studies. There was also incomplete blinding and no explanation of how potential bias was minimized (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)), and there was a complete absence of statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

3. A Perlman (*Angiology*, 39a:16–19, 1952) reported on an open-label, baseline-controlled diary study of PETN in 27 patients, 8 having angina pectoris. While four of the eight showed improvement in angina pectoris, this small study provides no evidence of effectiveness of PETN because it was inadequately controlled (drug was not compared to placebo and blinding was not used to minimize observer and analyst bias; (21 CFR 314.111(a)(5)(ii)(*a*)(*4*))/ Furthermore, the data were not statistically analyzed (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

4. N.S. Skinner, et al. (*American Heart Journal*, 61:250–251, 1961) compared the improvement of abnormal precordial motions induced by exercise with PETN and with nitroglycerin ointment in 11 patients. Because of the study's many deficiencies, including lack of definition of the patient population (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)(*i*)), lack of placebo control and blinding (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), and absence of data on chest pain and statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)), the Director does not consider this study adequate and well-controlled.

5. S. Samuels and E. Padernacht (*Angiology*, 3(1):20–21, 1952) studied PETN in 30 subjects with peripheral artery disease, an unsuitable patient population for consideration of the drug's effects in angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)).

6. D. Weitzman (*British Medical Journal*, 1409–1411, December 26, 1953) conducted an angina diary study of PETN in 65 patients. The study was inadequate because it was not randomized to minimize bias in patient assignment (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)), the crossover was incomplete and the observers and analysts were not blinded to minimize bias (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), and the data were not statistically analyzed (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

7. I. Hirshleifer (*Journal of the American Medical Association*, 9(1):31–33, 1958) conducted an open-label, baseline-controlled, anginal diary study using PETN in 23 patients, 17 of whom were said to respond favorably to PETN. With no placebo comparison and no blinding, the study is inadequately controlled (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). It is further deficient in its absence of data and statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)).

8. T.R. Harrison (*Bulletin of Johns Hopkins Hospital* 104:275–289, 1959)

published a single case report of the effects of PETN compared to nitroglycerin ointment on exercise kinetocardiogram in one patient. Isolated case reports cannot be considered as even corroborative support of the effectiveness of a drug (21 CFR 314.111(a)(5)(ii)(*c*)).

9. P.C. Johnson and S. Gunnar (*Journal of the American Medical Association*, 173:1231–1233, 1960) reported an open-label, baseline-controlled study of effects on myocardial blood flow and cardiac output using PETN in 10 patients with previous myocardial infarction and angina pectoris and in 19 subjects with no coronary disease. The methods using cannot demonstrate clinical effectiveness of PETN for treatment of angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)).

10. L. Kresno and G. Kibera (*Angiology*, 14(8):417–424, 1963) reported a single-blind, placebo-controlled, crossover study of the effect of PETN in 11 patients using a modified 2-step exercise test. The investigators concluded that PETN protected all 11 patients from exercise-induced angina pectoris at 1½ hours after dosing and protected 45 percent of patients for 4 hours after dosing. Because the order of treatment was not randomized (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)), the investigators were not blinded (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), and the methods were inadequate to determine clinical effectiveness in treating angina pectoris (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)), the Director does not consider this an adequate, well-controlled study in support of the effectiveness of PETN.

11. M. Neumann and A. Luisado (*American Journal of Medical Science*, 247:156–163, 1964) compared PETN with other antianginal drugs and placebo in a double blind, crossover study in 42 patients. Improvement in angina pectoris by the diary method was reported with 80 mg PETN–SA, but less favorable results were seen with PETN 10 mg and 30 mg three times a day; exercise tolerance was reported to be improved in those patients who had 2-step exercise tests although data were not provided. The lack of detailed data and analyses (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)) and the inadequacy of the exercise method (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)) prevent this study from being considered substantial evidence of PETN's effectiveness in treating angina pectoris.

E. Early Clinical Studies Using the Diary Method

Parke-Davis submitted limited information about a randomized, double-blind, placebo-controlled, parallel group multicenter study of the effects of 20 mg PETN four times a day for 4 weeks in 169 patients with angina pectoris. The diary method was used to determine drug effectiveness. The criteria for entering the trial and for establishing the diagnosis of angina pectoris were not described. Ninety of the 169 patients completed the trial, and specific information is not provided on when and for what reasons 79 subjects dropped out. PETN was significantly better ($p<.05$) then placebo for the number of angina episodes per week and nitroglycerin use per week only during the second week of therapy; no significant differences were seen at weeks 1, 3, and 4. There were no significant changes during treatment in functional evaluation of daily living with PETN as compared to placebo. Seven patients experienced various side effects with PETN therapy whereas four subjects had similar symptoms during placebo therapy.

The Director does not consider this trial, done prior to the general acceptance of exercise testing methods as a more objective means of evaluating patients with ischemic heart disease than angina diary, as substantial evidence for the effectiveness of antianginal agents. The difference in rate of angina with PETN, although stated to be statistically significant at week two, is extremely unimpressive: angina frequently at baseline was 15.1 ± 1.55 compared to 12.2 ± 1.47 at the second week. The reduction in nitroglycerin usage was equally modest. More information is needed on dropouts because nearly half the subjects entering the study did not complete the trial, and four patients completing the study were dropped from the data analysis without showing how the results would be influenced by including these patients in the analysis. Additional information also is needed on the comparability of pertinent baseline variables in the 2 treatment groups and on the various centers to determine the suitability of pooling the data, as only 3 of the 12 centers had more than 10 patients completing the study. The method of selecting the subjects is not sufficiently described to assure that they are suitable for the purposes of the study and that bias was minimized (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)), and the Director does not consider the study adequate and well controlled.

Parke Davis submitted the results of another multicenter (four centers) study of similar design in which the effects of PETN were investigated for 12 weeks. Of 253 patients who entered the trial, 127 completed it and data were analyzed on 114 subjects. In this study, placebo showed significant ($p<.05$) improvement from baseline during 4 weeks of the trial when PETN showed no improvement, and there were no significant differences in nitroglycerin usage either between the study groups or from baseline with either study drug. There was no difference with either treatment in functional evaluation of daily living activities. Little information is provided on the methods used for, and data resulting from, exercise testing; the sponsor states that there were no significant differences in exercise time between the two treatments. This trial plainly failed to show PETN to be any better than placebo for treatment of angina pectoris.

Parke-Davis submitted results of a third multicenter trial (two centers) with a protocol similar to the second multicenter trial, using 80 mg PETN-SA. Forty-nine patients entered the study, 36 completed it, and data were analyzed on 31 patients; the reasons for eliminating the others were not explained. There were no significant differences from baseline or between treatment groups in angina pectoris frequency or nitroglycerin usage. This trial, too, failed to show PETN to be any better than placebo for treatment of angina pectoris, and the Director does not consider it adequate and well-controlled because of the inadequacy of information about the patient population and data analysis (21 CFR 314.111(a)(5)(ii)(*a*) (*2*) and (*5*)).

These three randomized, placebo-controlled trials of similar design are deficient, principally in lacking exercise testing and modern definitions of the patient population although they were well designed for their era. Overall, the results are strikingly negative, with a drug-placebo difference emerging at only a single, one week measurement.

F. Conclusions

The Director of the Center for Drugs and Biologics concluded that the data submitted by Parke-Davis do not provide substantial evidence that PETN is effective in prophylaxis of angina pectoris.

The data establish that PETN is absorbed, when administered orally, and that when absorbed, PETN has hemodynamic effects that suggest potential usefulness in the prophylaxis of angina pectoris. The data do not not, however, establish any relationship of effects to dose nor do they define the duration of effect. These data alone cannot establish efficacy in the treatment of angina pectoris although they suggest PETN at some dose might be useful.

Clinical trials designed to determine the efficacy of PETN in the treatment of angina pectoris have been conducted. Among older trials, some favor PETN over placebo or suggest improvement compared to baseline status, but the best of the older angina diary trials show no effect of 20 mg PETN four times a day. Small recent trials using exercise tolerance testing numerically favor PETN but most failed to show statistically significant effect. Nonetheless, the results of these studies, together with the hemodynamic data, suggest that a well-designed, large enough trial would provide clearer evidence regarding effectiveness.

Such a trial was in fact conducted (the pivotal, multicenter trial referred to under B1, above). It included 172 subjects, was placebo-controlled, and used an open preliminary titration to find an optimal PETN dose, which was then compared to placebo; it also excluded patients with excessive ETT variability. Unfortunately, the trial, when analyzed to include all patients who completed it, failed to differentiate PETN from placebo even though measurements of drug effect were made at a time after oral dosing that should have maximized the probabilities of detecting a drug-placebo difference.

Although *post facto* analyses of subsets of patients or of new groupings of data (e.g., comparing PETN and placebo for the numbers of patients who had a specified degree of ETT improvement) can make the data look more favorable, they cannot alter the fact that an attempted definitive study, of adequate size and of a design that was very well suited to detecting an effect if one existed, failed to demonstrate improved exercise tolerance. The existence of occasional older, less definitive, studies with some positive results similarly does not alter the fact that the best study, one of the few using potentially adequate doses, failed to produce support for an effect on angina.

III. Revocation of Exemption and Notice of Opportunity for Hearing

Adequate time has been allowed for the design and conduct of acceptable studies to demonstrate the effectiveness of the drug products referred to in this notice. Accordingly, the Director of the Center for Drugs and Biologics hereby revokes the temporary exemption granted to these drug products by the December 14, 1972 notice.

On the basis of all the data and information available to him, the Director of the Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and that demonstrates the effectiveness of the drug products referred to in this notice.

Notice is given to the holders of the new drug applications and abbreviated new drug applications listed above, and to all other interested persons, that the Director of the Center for Drugs and Biologics proposes to issue an order under section 505(e) of the act, withdrawing approval or conditional approval of the applications and all amendments and supplements thereto providing for the drug products referred to in this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have any of the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the applications specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical, related, or similar to the drug products named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific product by writing to the Division of Drug Labeling Compliance (address given above).

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act and the regulations promulgated under it (21 CFR Parts 310 and 314), the applicant and all other persons subject to this notice are hereby given an opportunity for a hearing and to submit additional data to show why approval of the NDA's should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and any other drug product covered by this notice.

The applicant or any other person subject to this notice who decides to seek a hearing shall file (1) on or before November 14, 1984 a written notice of appearance and request for hearing; and (2) on or before December 14, 1984 the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug product from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under

21 U.S.C. 331(j) or 18 U.S.C. 1905, the submission may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: October 4, 1984.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 84-27103 Filed 10-12-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Recombinant DNA Advisory Committee Working Group on Release Into the Environment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Working Group on Release into the Environment at the Linden Hill Hotel, Seapines Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814, on October 30, 1984, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss submission guidelines for proposals involving microorganisms, and other issues involving release into the environment of recombinant organisms. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Recombinant DNA Advisory Committee Working Group on Release into the Environment, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland, telephone (301) 496–6051.

Dated: October 11, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 84-27341 Filed 10-12-84; 10:50 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Board of Scientific Counselors' Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on October 31 and November 1, 1984.

The meeting will be open to the public from 8:30 a.m. until adjournment on October 31. The preliminary agenda with *approximate* times are as follows:

Review of NIEHS/NTP Cellular and Genetic Toxicology Branch Programs:

8:30 a.m.–12:00 noon—Presentations on extramural projects in cellular and genetic toxicology test methods development and application.

12:45 p.m.–2:45 p.m.—Cellular and Genetic Toxicology Branch Concept Reviews.

3:00 p.m.–4:45 p.m.—Presentations on Cellular and genetic toxicology intramural research projects.

The meeting on November 1 will be open to the public from 8:30 a.m. to 3:15 p.m. The preliminary agenda with *approximate* times are as follows:

8:30 a.m.–8:45 a.m.—Report of the Director, NTP

8:45 a.m.–10:15 a.m.—NTP Response to Recommendations On Short-Term Testing by the *Ad Hoc* Panel on Chemical Carcinogenesis Testing and Evaluation.

10:30 a.m.–12:00—NIEHS/NTP Concept Reviews

12:45 p.m.–1:00 p.m.—Discussion of Peer Review for Reports on the Data from Remaining Long-Term Studies Performed at Gulf South Research Institute

1:00 p.m.–3:15 p.m.—Peer Review and Priority Ranking of Chemicals Nominated for NTP Testing. (Five azo and nitro dyes considered and deferred by the Board on August 16, 1984, will be reviewed and are listed in the **Federal Register,** Volume 49, No. 5, pp. 1139–1140, January 9, 1984. Additionally, six new chemical nominations [organometallic compounds] will be reviewed and are listed in the **Federal Register,** Volume 49, No. 72, pp. 14589–14590, April 12, 1984)

In accordance with the provisions set forth in Section 552b(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 1 from approximately 3:30 p.m. to adjournment for further evaluation of NIEHS/NTP programs in cellular and genetic toxicology, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the discloure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will furnish a roster of Board members and expert consultants and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: September 27, 1984.

David P. Rall, M.D. Ph.D.,

Director, National Toxicology Program.

[FR Doc. 84-27113 Filed 10-12-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order No. 3104]

Issuance of Archeological and Paleontological Permits

Section 1 *Purpose.* This order redelegates the authority for issuance of archeological and paleontological permits under the authorities of the following two (2) laws.

a. "An Act for the Preservation of American Antiquities" Pub. L. 209, dated June 8, 1906, "* * * 34 Stat. 225, 16 U.S.C. 432. * * *" and implementing regulations.

b. "Archaeological Resources Protection Act of 1979" (ARPA), dated October 31, 1979, Pub. L. 96–95; 93 Stat. 721, 16 U.S.C. 470cc, * * *" and implementing regulations.

Section 2 *Delegation of Authority.* The authority currently delegated to the Director, National Park Service, through the Assistant Secretary for Fish and Wildlife and Parks, for the issuance of archeological and paleontological permits under "An Act for the

Preservation of American Antiquities", and the "Archaeological Resources Protection Act", is concurrently delegated to the Assistant Secretaries for Fish and Wildlife and Parks, Indian Affairs, Land and Minerals Management, and Water and Science. Such authority will be exercise exclusively for programs and lands under their jurisdiction.

Section 3 *Effective Date.* This order becomes effective October 1, 1984, and will remain in effect until its conversion to the Department Manual. Each Assistant Secretary to whom this authority is delegated will take steps to document these delegations in the Departmental Manual. Such conversion will take place by September 30, 1985, at which time this order will be considered obsolete.

Dated: September 28, 1984.

William P. Clark,

Secretary of the Interior.

[FR Doc. 84-27173 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Completion of Membership Roll of the Texas Band of Kickapoo Indians

October 5, 1984.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given by the Bureau of Indian Affairs that the membership roll of the Texas Band of Kickapoo Indians has been completed. The membership roll was prepared in accordance with the Texas Band of Kickapoo Act of January 8, 1983, which granted Federal recognition to the Texas Band of Kickapoo Indians. Publication of a notice in the **Federal Register** stating that the roll has been completed as required by section 4 of the Texas Band of Kickapoo Act.

FOR FURTHER INFORMATION CONTACT: Joe B. Walker, Superintendent, Shawnee Agency, Bureau of Indian Affairs, Federal Building, Shawnee, Oklahoma 74801, telephone number: (405) 273-0317.

SUPPLEMENTARY INFORMATION: The Texas Band of Kickapoo Act of January 8, 1983, granted Federal recognition to the Texas Band of Kickapoo Indians. Section 4 of the Act directed the Secretary of the Interior, after consultation with the Kickapoo Tribe of Oklahoma, to compile a roll of those members of the Tribe who possess Kickapoo blood and who are also members of the Texas Band of Kickapoo Indians.

Accordingly, the membership roll of the Texas Band of Kickapoo Indians was prepared as of August 24, 1984. The membership roll was certified by the elected officials of the Kickapoo Tribe of Oklahoma and approved on August 24, 1984, by the Superintendent, Shawnee Agency, Bureau of Indian Affairs, acting under delegated authority from the Secretary of the Interior.

In accordance with subsection 4(c) of the Texas Band of Kickapoo Act, for a period of five years from the date of the publication of this notice, any member of the Band whose name appears on the roll compiled of the Texas Band of Kickapoo Indians, may, at his/her option, apply for United States citizenship. Application for citizenship shall be made to the immigration and Naturalization Service and, upon receipt of the application, citizenship shall promptly be granted to the applicant. The Act further provides in subsection 4(d) that notwithstanding the Immigration and Nationality Act, all members of the Band shall be entitled to freely pass and repass the borders of the United States and to live and work in the United States.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-27143 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Fairbanks District Advisory Council Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting on November 15, 1984. The location of the meeting will be the second-floor training room at the BLM office on Ft. Wainwright, corner of Gaffney and Marks Roads. The meeting will convene at 8:30 a.m. and conclude at 5 p.m. Public comments will be received by the Council from 1 p.m. to 2 p.m.

The following topics will be discussed at the meeting.

1. Status of Planning for the Central Yukon Management Area.
2. Briefing on Steese/White Mountains Proposed Resource Management Plan and final Environmental Impact Statement.
3. RS 2477 Memorandum of Understanding.
4. ANCSA Easements—Departmental Policy and Guidance.
5. Teshekpuk Lake Special Area Study.
6. Impact of proposed increase of military personnel on BLM at Ft. Wainwright.

All meetings of the Council are open to the public.

Carl D. Johnson,

District Manager.

[FR Doc. 84-27142 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-84-M

Filing of Plat of Survey; Utah

AGENCY: Bureau of Land Management, Utah, Interior.

ACTION: Notice.

SUMMARY: These plats of survey of the following described land will be filed in the Utah State Office, Salt Lake City, Utah, immediately:

Salt Lake Meridian, Utah

T. 17 S., R. 7 E.

This plat, which represents the corrective resurvey of a portion of the east boundary of T. 17 S., R. 6 E., and a portion of the subdivisional lines of T. 17 S., R. 7 E., Salt Lake Meridian, Utah for Group 499, was accepted September 24, 1984.

Salt Lake Meridian, Utah

T. 15 S., R. 13 E.

This plat, which represents the dependent resurvey of a portion of the subdivisional lines, and a survey of the subdivision of Section 10, T. 15 S., R. 13 E., Salt Lake Meridian, Utah for Group 628, was accepted September 26, 1984.

Salt Lake Meridian, Utah

T. 12 N., R. 9 W.

This plat, which represents the dependent resurvey of a portion of the Third Standard Parallel North between Townships 12 and 13 North through Ranges 8 and 9 West, the west boundary, a portion of the east boundary, and a portion of the subdivisional lines of T. 12 N., R. 9 W., Salt Lake Meridian, Utah for Group 624, was accepted September 24, 1984.

Salt Lake Meridian, Utah

T. 30 S., R. 5 E.

This plat, which represents the dependent resurvey of a portion of the north boundary, a portion of the west boundary identical with a portion of the First Guide Meridian East, and a portion of the subdivisional survey of Sections 5 and 6, T. 30 S., R. 5 E., Salt Lake Meridian, Utah for Group 636, was accepted September 26, 1984.

Salt Lake Meridian, Utah

T. 41 S., R. 11 W.

This plat, which represents the dependent resurvey of a portion of the south and west boundaries and a portion of the subdivision lines, and the survey of the subdivision of Sections 29, 30, and 31, T. 41 S., R. 11 W., Salt Lake Meridian, Utah for Group 642 was accepted September 24, 1984.

These plats will immediately become the basic records for describing the land for all authorized purposes. The plats have been placed in the open files and are available to the public for information only. These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries relating to these lands should be sent to the Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: October 5, 1984.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-27105 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-DQ-M

[4-21702-ILM]

Utah; Initial Classification Decision for State Indemnity Selection Amendment

The Initial Classification Decision for U-52672 published in **Federal Register**, Vol. 49, No. 183, Wednesday, September 19, 1984, page 36710, is hereby amended as follows: All comments, objections or protests to this decision should be sent directly to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240, as soon as possible, but not later than 30 days from the date of publication in the **Federal Register**. The Serial number was published as U-52762. The correct serial number is U-52672.

Dated: October 3, 1984.

Roland G. Robison,

State Director.

[FR Doc. 84-27104 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-DQ-M

California Desert District; Off-Road Vehicle Designation Decisions in Eastern Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Off-road vehicle designation decisions to open, close, or limit use of routes of travel on public lands in eastern Riverside County, California.

SUMMARY: Off-road vehicle designation decisions have been made to protect the resources of the area, to promote safe use of the lands and to minimize conflicts among users. The designations were prepared following the criteria defined in 43 CFR 8342.1 and with the authority of 43 CFR 8000.0-6, 8340, 8341, 8342, and 8364. The California Desert Conservation Area had previously been mapped using a series of 21 maps called the Motorized Vehicle Interim Access Guides. These guides provided the interim vehicle designations made by the California Desert Conservation Area Plan until such a time as vehicle routes in each map area could be more carefully inventoried. This notice serves to inform the public that designation decisions have been completed for the entire Indio Resource Area. This area encompasses approximately 1.6 million acres of BLM-administered public land in the desert portions of Riverside County and includes such well-known locations as Whitewater Canyon, Big Morongo Canyon, Mecca Hills, Berdoo Canyon, Orocopia Mountains, Eagle Mountains, Chuckwalla Bench, the Bradshaw Trail, Corn Springs, Palen Pass and the Big Maria Mountains.

DATES: These designations are effective thirty days after publication of this notice and will remain in effect until rescinded or modified by the authorized officer. Enforcement of these route designations will be implemented as routes are signed or as maps are printed and become available to the public.

ADDRESSES: Send inquiries to District Manager, California Desert District, 1695 Spruce Street, Riverside, CA 92507 or the Area Manager, Indio Resource Area, 1695 Spruce Street, Riverside, CA 92507. Route designation decision records and maps showing vehicle designations will be available for public review at the above addresses from 7:45 a.m. to 4:30 p.m. on regular work days.

FOR FURTHER INFORMATION CONTACT: Dave Mensing, (714) 351-6402, Don Banks, (714) 351-6663.

SUPPLEMENTARY INFORMATION: Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), EO 11644 (Use of Off-Road Vehicles on the Public Lands), and 3 CFR 74.332 as amended by EO 11989, 42 FR 26959 (May 25, 1977). Any person who violates or fails to comply with the vehicle route designations as governed by 43 CFR Part 8341 is subject to arrest, conviction and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than twelve months, or both.

Dated: October 3, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84-27188 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Offshore Minerals Management; Regional Manager Title Change

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

The Department of the Interior granted on September 13, 1984, approval to change the title of the Regional Managers in the Outer Continental Shelf Regions of Alaska, Atlantic, Gulf of Mexico, and Pacific. The new title is Regional Director.

Existing documents will be updated later to reflect this change.

EFFECTIVE DATE: The title change became effective as of September 13, 1984.

Dated: October 2, 1984

Thomas M. Gernhofer,

Assistant Director for Administration.

[FR Doc. 84-27121 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-MR-M

Request for Information; Shumagin and Kodiak Sales 86 and 99

Purpose

The Shumagin and Kodiak proposed Outer Continental Shelf (OCS) oil and gs lease sales are being reviewed by the Secretary of the Interior to determine whether the OCS presale process should be initiated for these sales. The oil and gas industry is requested to assist in this process by providing up-do-date information on its interest in exploring in the Shumagin and Kodiak planning areas.

If the presale process is initiated for either sale, a Call for Information for Shumagin would be issued in May 1985 with a sale proposed for June 1987. The Call for the Kodiak planning area, scheduled for September 1984, has been delayed in order to accommodate the review of industry interest for this area. If the presale process is initiated for Sale 99, the sale date, originally proposed for October 1986, will be delayed.

Should a decision be made to begin the OCS presale process for either proposal, sale-related information will be requested from the public as part of

that process. At this time, only industry's interest in proceeding with either sale is being examined. The attached map depicts the planning areas.

Use of Information

The responses will assist the Secretary of the Interior to determine if the presale process for the proposals should be started, cancelled, or deferred for consideration in a future 5-year schedule. The presale process includes the following steps: Call for Information, Area Identification, Environmental Impact Statement (EIS), Public Hearing, Governors Comments, and Proposed and Final Notices of Sale.

Description of the Area

The Kodiak planning area generally lies southeast of Kodiak Island. It is bounded on the west by 156° W. longitude. From 156° W. longitude, the boundary extends east along 57° N. latitude until it intersects the 3-geographical-mile line of Kodiak Island, following this boundary south and northeast; thence north to 59° N. latitude; thence east to 148° W. longitude; thence south to 58° N. latitude; thence east to 147° W. longitude; thence south to 53° W. latitude; thence west to 150° W. longitude; thence south to 52° N. latitude; thence west to 156° W. longitude, which is the point of origin. The area covers approximately 16,000 blocks or 89 million acres.

The Shumagin planning area lies southeast of the Alaska Peninsula. It is bounded on the east by 156° W. Longitude from 57° N. latitude; thence south to 51° N. latitude extending west to 159° W. longitude; thence south to 50° N. latitude; thence west to 165° W. longitude; thence north until it intersects the 3-geographical-mile line of Unimak Island; thence north and east along the 3-geographical-mile line until it meets 57° N. latitude which is the point of origin. The area covers approximately 15,500 blocks or 87 million acres.

Previous Presale Activities

Portions of both planning areas were included in proposed Lease Sale 46, Western Gulf of Alaska. The Call for Nominations and Comment for this proposed sale, published in the **Federal Register** at 40 FR 50732 on October 31, 1975, covered about 16 million acres. Thirteen companies responded with most of the interest shown in the eastern two-thirds of the area, specifically from southern Kodiak Island to the northeastern boundary of the Call area. A draft EIS was made available in April 1977, with a revised draft published in December 1979. The proposed sale was cancelled in April 1980 because of a lack of industry interest and commercial fishery concerns.

The Call for Nominations and Comment for proposed Lease Sale 61, Kodiak, was published in the **Federal Register** at 45 FR 62909 on September 22, 1980. Five companies responded to the Call which covered about 12.1 million acres. Subsequently, this proposal was dropped from the 5-Year Planning Schedule because of a lack of industry interest and concerns over commercial fisheries.

Instructions on Request for Information

Information on industry interest in leasing and exploring in the Shumagin and Kodiak Planning Areas should be provided by letter. General or detailed information may be submitted but specific responses are requested on the advisability of selecting one of the following options for each planning area: Proceed with the OCS presale process; cancel the OCS presale process; or defer the sale for consideration in a future 5-year schedule.

In order to be included in the review process, information must be submitted no later than 45 days following publication of this document in the **Federal Register**. Correct receipt of the information will be facilitated if envelopes are marked "Request for Information on Proposed Lease Sale 86, Shumagin" or "Request for Information on Proposed Lease Sale 99, Kodiak."

Letters should be addressed to the Regional Supervisor for Leasing and Environment, Alaska OCS Region, P.O. Box 101159, 620 East 10th Avenue, Anchorage, Alaska 99510. A copy of the response should be sent to the Chief, Offshore Leasing Management Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 645, Reston, Virginia 22091. Hand deliveries to the Department of the Interior may be made at 18th and C Streets, N.W., room 2525, Washington, D.C. Telephone inquiries may be made to Phyllis Casey (907) 261–2455 (Alaska) or to Sandra Seim (202) 343–5121 (Washington, DC).

Dated: October 15, 1984.
Approved:

Garrey E. Carruthers,

Assistant Secretary—Land and Minerals Management.

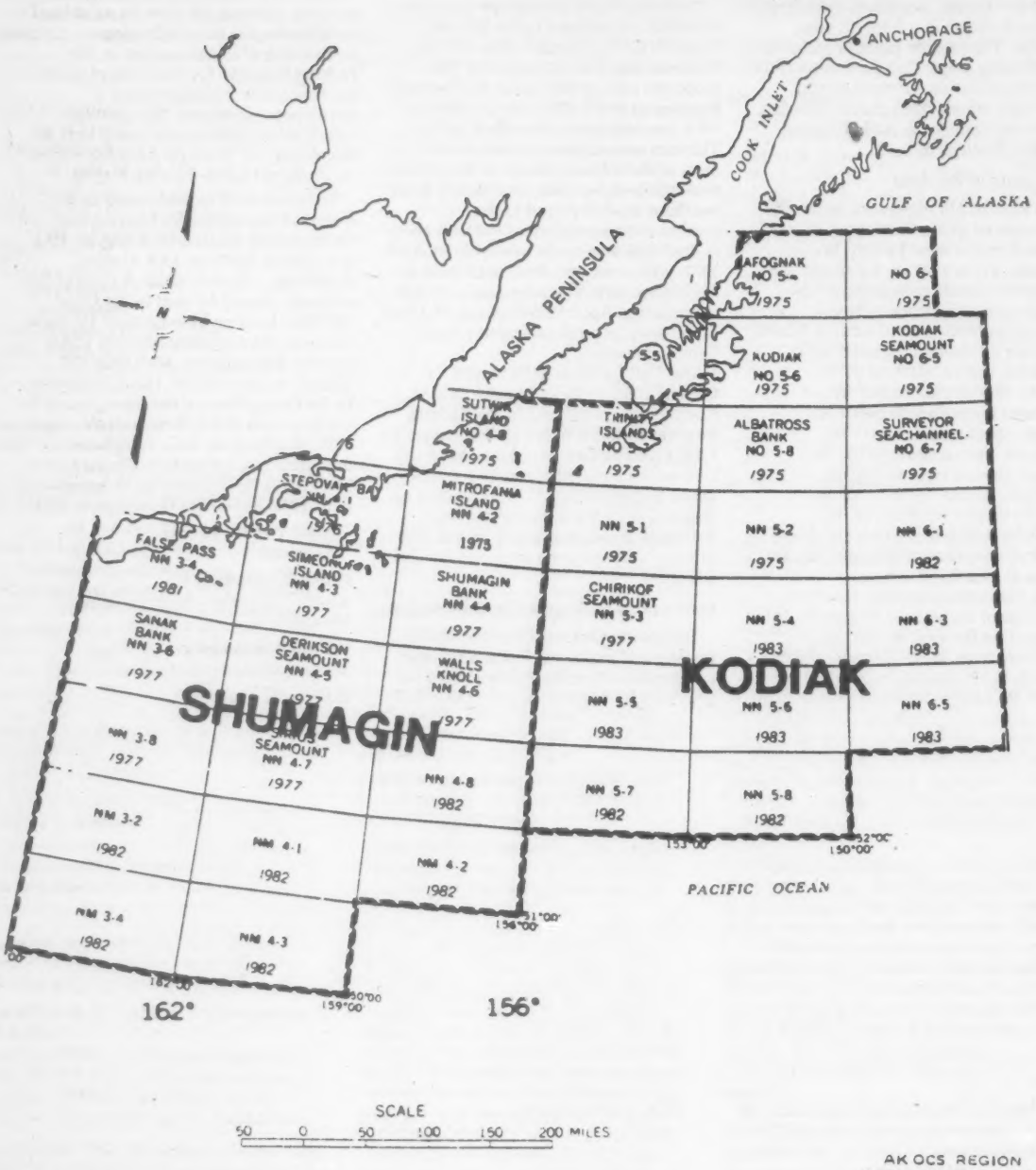
William D. Bettenberg,

Director, Minerals Management Service.

BILLING CODE 4310-MR-M

KODIAK AND SHUMAGIN

PLANNING AREAS



[FR Doc. 84-27114 Filed 10-12-84; 8:45 am]
Billing Code 4310-MR-C

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning at 7 p.m. (EST), on Thursday, October 25, 1984, at the Happy Days Visitor Center located on West Streetsboro Road, 1 mile west of Route 8 in Peninsula, Ohio.

The Commission was established by the Act of December 27, 1984, 88 Stat. 1788, 16 U.S.C. 460ff–4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mrs. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. C.W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. R. Robbie Stillman
Dr. Robert W. Teater

The principal topic of discussion will be the potential impact of oil and gas development within the Cuyahoga Valley National Recreation Area.

The meeting will be open to the public. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio, 44141, telephone (216) 526–5256. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 15610 Vaughn Road, Brecksville, Ohio 44141.

Dated: October 3, 1984.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 84-27186 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-70-M

[Order 77, Amdt. No. 14]

Directors of National Park Service Regions; Delegation, Redelegation, and Revocation of Authority

Order No. 77, approved February 27, 1973, and published in the **Federal Register** of March 22, 1973 (38 FR 7478), as amended, set forth in Section 1 the exceptions on delegations of authority, and in Section 2 certain limitations on redelegation of authority.

Section 2. A new paragraph 5 is added to Section 2 to read as follows:

Section 2. Paragraph 5 Authority to grant permits for archeological and paleontological explorations under the authorities of "An Act for the Preservation of American Antiquities", dated June 8, 1906, and, the "Archaeological Resources Protection Act" dated October 31, 1979, may not be redelegated.

Dated: September 20, 1984.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 84-27172 Filed 10-12-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-223 (Preliminary)]

Agricultural Tillage Tools From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701–TA–223 (Preliminary) under section 703(a) of the Tarriff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Brazil of agricultural tillage tools, provided for in item 666.00 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Brazil.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Vastagh (202–523–0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on September 28, 1984, by Ingersoll Products Corp., Chicago, IL; Empire Plow Co., Cleveland, OH; and Nichols Tillage Tools, Inc., Sterling, CO. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by November 13, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

Written Submissions

Any person may submit to the Commission on or before October 31, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Condifential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference

in connection with this investigation for 9:30 a.m., on October 25, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Mr. Stephen Vastagh (202–523–0283) not later than October 19, 1984, to arrange for their appearance. Parties in support of the imposition of contervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC.

For further information concerning the conduct of this investigation and rules of general appication, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

Authority: This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27192 Filed 10–12–84; 8:45 am]

BILLING CODE 7020–02–M

Request for Public Comment on Termination of Countervailing Duty Investigation Concerning Ampicillin Trihydrate and Its Salts From Spain

AGENCY: International Trade Commission.

ACTION: Request for comments on proposed termination of countervailing duty investigation under section 104(b) of the Trade Agreements Act of 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau, Office of Investigations, telephone 202–523–0368.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the cae of a countervailing duty order issued under section 303 of the Traiff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such industry would be materially retarded, if the order were to be revoked. On June 17, 1982, the Commission received a request from the Government of Spain for the review of the countervailing duty order on ampicillin trihydrate and its salts from Spain (T.D. 79–90). Notice of the countervailing duty order was published on March 22, 1979, in the **Federal Register** (44 FR 17484).

The Commission received a letter on September 13, 1984, from Biocraft Laboratories, Inc., the original petitioner for the countervailing duty order, stating that it withdraws its request for the imposition of countervailing duties under the above-referenced countervailing duty order.

In light of the legislative history of section 704(a) of the Tariff Act of 1930 indicating Congress' expectation that the Commission will permit public comment prior to termination, the Commission requests written comments from persons concerning the proposed termination of the investigation on ampicillin trihydrate and its salts from Spain. These written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the **Federal Register.**

By order of the Commission.

Issued: October 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–27193 Filed 10–12–84; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30329]

Southern Pacific Transportation Co.; Abandonment and Discontinuance of Service Exemption in St. Landry, Avoyelles, and Rapides Parishes, LA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Southern Pacific Transportation Company (SPT) of 34.20 miles of rail line in St. Landry, Avoyelles, and Rapides Parishes, LA, subject to employee protective conditions, and grants exemption for the proposed discontinuance of trackage rights operations by SPT over 23.78 miles of Missouri Pacific Railroad Company.

DATES: This decision shall be effective on November 14, 1984. Petitions for reconsideration must be filed by November 5, 1984. Petitions for stay must be filed by October 25, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30329 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Gary A. Laakso, Southern Pacific Bldg., One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 2, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84–27119 Filed 10–12–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of Assistant Secretary—Veterans Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under Section 308, Title III, Pub. L. 97–306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, October 30, 1984, at 10:00 a.m., in the Secretary's Conference Room, S–2508–FPB.

Items to be discussed are:

- Emergency Veterans' Job Training Act
- Department of Labor's "Salute" to Veterans
- Veterans Administration—Committee for Employer Support of Veterans Employment
- Proposed Committee Operating Procedures

- Communications Subcommittee Update
- Questions and Answers

The public is invited.

Signed at Washington, DC, this 10th day of October, 1984.

Donald E. Shasteen,

Deputy Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 84-27150 Filed 10-12-84; 8:45 am]

BILLING CODE 4510-79-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

October 9, 1984.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, October 29–30, 1984. The meeting will be held in Page Building #1, Rooms 416 and B–100, 2001 Wisconsin Avenue, NW., Washington, DC. The meeting will commence at 9:00 a.m. and end at 5:00 p.m. October 29. On October 30, the meeting will commence at 8:30 a.m. and end at 4:00 p.m. The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Public Law 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Monday, October 29, 1984

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 & B–100, Washington, DC

Plenary

9:00 a.m.–9:30 a.m.

- Introductory Remarks

9:30 a.m.–11:00 a.m.

- Guest Speakers:
  Admiral J.S. Gracey, Commandant of the U.S. Coast Guard
  Commodore John R. Seesholtz, Oceanographer of the Navy
  Doyle G. Frederick, Associate Director, United States Geological Survey

11:00 a.m. 12:00 Noon

- Federal Ocean Programs
  Speaker: Eric Schneider, Chairman, Subcommittee on Marine Research Committee on Atmosphere and Oceans

Lunch

12:00 p.m.–1:00 p.m.

Plenary

1:00 p.m.–2:00 p.m.

- Federal Atmospheric Research Programs
  Speaker: Eugene W. Bierly, Chairman, Subcommittee on Atmospheric Research, Committee on Atmosphere and Oceans

Planel Meetings

2:00 p.m.–4:00 p.m.

- Underwater Technology
  Chairman: Don Walsh
  Room B–100
  Topic: Panel Work Session
  Speakers: None

2:00 p.m.–5:00 p.m.

- Living Resources
  Chairman: Charles Black
  Room 416
  Topic: North Pacific Fur Seal Treaty
  Speakers: None

Recess

5:00 p.m.

Tuesday, October 30, 1984

2001 Wisconsin Avenue, NW, Page Building #1, Rooms 416 & B–100, Washington, DC

Panel Meetings

8:30 a.m.–12:00 Noon

- Federal/State Relations Co-Chairmen: John Norton Moore, Judity Kildow
  Room 416
  Topic: Outer Continental Shelf and Coastal Zone Management Issues
  Speakers: TBA

9:00 a.m.–12:00 Noon

- Atmospheric Affairs
  Chairman: Fred Singer
  Room B–100
  Topic: Panel Work Session
  Speakers: Non

Lunch

12:00 p.m.–1:00 p.m.

Plenary

1:00 p.m.–4:00 p.m.

- Discussion of North Pacific Fur Seal Treaty by Panel Chairman
- Presentation of Preliminary Findings of Shipbuilding Panel by Panel Chairman
- Further Discussions on NACOA Exclusive Economic Zone (EEZ) Activities
- Panel Reports
- Other Business

Adjourn

4:00 p.m.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: October 10, 1984.

James A. Almazan,

Staff Physical Scientist.

[FR Doc. 84-27109 Filed 10-12-84; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities; Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that the following meeting of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

Date: October 11, 1984.
Time: 10:30 a.m. to 3:30 p.m.
Room: 430.

Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1985.

The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussions of information given in confidence to the

agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code. This is not a regularly scheduled panel meeting but a panel meeting convened to review applications for which review was unanticipated. In light of the unexpected nature of this panel meeting, the National Endowment is unable to provide the notice within the time required.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84–27177 Filed 10–12–84; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Wings West Airlines, Inc. Aircraft Accident; Public Hearing

In connection with its investigation of the accident involving Wings West Airlines, Inc., Beech 99C, N6399U, and Aesthetech, Inc., Rockwell Commander 112TC, N112SM, near San Luis Obispo, California, on August 24, 1984, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on November 1, 1984, in Salons C & D of the Continental Ballroom, Holiday Inn Crowe Plaza, Los Angeles, California.

Dated: October 10, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84–27123 Filed 10–12–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–398]

Florida Power and Light Co., et al., St. Lucie Plant, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Operating License No NPF–16 to Florida Power and Light Co., et al., (the licensee) for St. Lucie Plant, Unit No. 2 located in St. Lucie County, Florida.

Identification of Proposed Action

The amendment would consist of changes to the operating license and Technical Specifications (TS) and would authorize an increase of the storage capacity of the spent fuel pool (SFP) from 675 fuel assemblies to 1076 fuel assemblies with enrichments no greater than 4.5 weight percent U–235.

The amendment to the TS is responsive to the licensee's application dated March 13, 1984. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment By the Office of Nuclear Reactor Regulation Relating to the Modification of the Spent Fuel Storage Pool, Operating License No. NPF–16, Florida Power and Light Co., et al., St. Lucie Plant, Unit No. 2, Docket No. 50–389" dated

Summary of Environmental Assessment

The Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575) concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the differences in SFP designs, the FGEIS recommended licensing SFP expansion on a case-by-case basis.

For St. Lucie 2 the expansion of the storage capacity of the SFP will not create any significant additional radiological effects or measurable non-radiological environmental impacts. The additional whole body dose that might be received by an individual at the site boundary is less than 0.1 millirem per year; the estimated dose to the population within a 50-mile radius is estimated to be less than 0.1 person-rem per year. These doses are small compared to the fluctuations in the annual dose this population receives from exposure to background radiation. Since the spent fuel pool for St. Lucie 2 has never had spent fuel stored in it and is currently dry, clean and uncontaminated, there will be no additional radiation exposure to workers due to this modification. Therefore, the staff concludes that the exposure to workers is as low as is reasonably achievable (ALARA) and is acceptable.

Finding of No Significant Impact

The staff has reviewed this proposed facility modification relative to the requirements set forth in 10 CFR Part 5. Based upon the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission had determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see: (1) The application for amendment to the Technical Specifications dated March 13, 1984, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for St. Lucie 2 issued April 1982, and (4) The Environmental Assessment dated. These documents are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington D.C. 20555 and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland this 9th day of October 1984.

For The Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84–27189 Filed 10–12–84; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Coal Options Task Force; Regular Meeting

AGENCY: Coal Options Task Force of the Pacific Northwest Electric Power an Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory

Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Assessing the implications of The Clean Air Act, Clean Water Act and NEPA—Status report.
- Potential Coal Options—Status report—Available capacity at Boardman site.
- Assessing schedules, constraints to development and associated probabilities of potential coal options—Review of final survey forms.
- Task Force Report.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Coal Options Task Force.

DATE: Friday, October 19, 1984. 9:00 a.m.

ADDRESS: The meeting will be held at the Council Conference Room at 700 S.W. Taylor; Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION, CONTACT: Jeff King, (503)222–5161.

Edwards Sheets,

Executive Director.

[FR Doc. 84–27108 Filed 10–12–84; 8:45 am]

BILLING CODE 6000–01–M

Options Evaluation Task Force; Regular Meeting

AGENCY: Options Evaluation Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Review DSI interruptibility studies.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Options Evaluation Task Force.

DATE: Monday, October 15, 1984. 2:00 p.m.

ADDRESS: The meeting will be held at the Council Hearing Room at 700 S.W. Taylor; Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION, CONTACT: Wally Gibson (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–27107 Filed 10–12–84; 8:45 am]

BILLING CODE 6000–01–M

Options Steering Committee; Regular Meeting

AGENCY: Options Steering Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Discussion of objectives of Action Item 14.1.
- Discussion of FERC position on hydropower options.
- Bonneville's solicitation for hydropower options.
- Bonneville activities post-solicitation.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Options Steering Committee.

DATE: Friday, October 26, 1984. 9 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room at 700 S.W. Taylor; Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Tom Foley, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–27106 Filed 10–12–84; 8:45 am]

BILLING CODE 6000–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–8300]

Williams Electronics, Inc. Common Stock, Par Value $.50; Order Granting Application To Strike From Listing and Registration

October 9, 1984.

The Philadelphia Stock Exchange, Inc. ("Phlx") has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(c) promulgeted thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged for striking this security from listing and registration include the following:

The underlying security of Williams Electronics, Inc. closed below $10.00 on a majority of business days in a six month period as measured by the highest closing price recorded in any market on which the underlying security trades. The final series of contracts expired on September 22, 1984.

The Commission, having considered the facts stated in the application and having due regard for the public interest and protection of investors, orders that said application be, and it hereby is, granted, effective at the opening of business on October 10, 1984.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27125 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Boston Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Whitehall Corp., Common Stock, $.10 Par Value (File No. 7–7885)

Postal Instant Press, Common Stock, No Par Value (File No. 7–7886)

Southern Union Company, Common Stock, $1.00 Par Value (File No. 7–7887)

Americus Trust for AT&T Common Shares, Prime-Series A (File No. 7–7888)

Cameron Iron Works, Inc., Common Stock, $.208–1/3 Par Value (File No. 7–7889)

LaFarge Corp., Common Stock, $1.00 Par Value (File No. 7–7929)

AMCA International, Common Stock, No Par Value (File No. 7–7930)

Domtar, Inc., Common Stock, No Par Value (File No. 7–7931)

Quebecor, Inc., Common Stock, No Par Value (File No. 7–7932)

Brascan, Ltd., Class A Convertible, No Par Value (File No. 7–7933)

Total Petroleum (No. America) Ltd., Warrants (1986) (File No. 7–7934)

Total Petroleum (No. America) Ltd., Convertible Preferred, $2.88 Par Value (File No. 7–7935)

Campbell Resources, Common Stock, No Par Value (File No. 7–7936)

Acco World Corp., Common Stock, $.05 Par Value (File No. 7–7953)

Adams Resources & Energy, Inc., Common Stock, $.10 Par Value (File No. 7–7954)

Amerace Corp., Common Stock, $5.00 Par Value (File No. 7–7955)

Astrotech International Corp., Common Stock, $.30 Par Value (File No. 7–7956)

National Intergroup, Inc., Common Stock, No Par Value (File No. 7–7957)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will appove the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27131 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Central Hudson Gas & Electric Corp., Common Stock, No Par Value (File No. 7-7940)

Equimark Corporation, Common Stock, $3.33⅓ Par Value (File No. 7-7941)

General Refractories Company, Common Stock, $.50 Par Value (File No. 7-7942)

Source Capital, Inc., Common Stock, $1.00 Par Value (File No. 7-7943)

Whitehall Corporation, Common Stock, $.10 Par Value (File No. 7-7944)

Giant Food, Inc., Common Class "A", $1.00 Par Value (File No. 7-7945)

The MacNeal-Schwendler Corporation, Common Stock, $.10 Par Value (File No. 7-7946)

Russell Corporation, Common Stock, $.01 Par Value (File No. 7-7947)

Allis-Chalmers Corporation, Cum. Conv. Pref. Stock, No Par Value (File No. 7-7892)

Amerada Hess Corporation, Conv. Pref. Stock, $1.00 Par Value (File No. 7-7893)

American Telephone & Telegraph Company, Cum. Pref. Stock $1.00 Par Value (File No. 7-7894)

Bethlehem Steel Corporation, $5.00 Cum. Conv. Pref., $1.00 Par Value; $2.50 Cum. Conv. Pref., $1.00 Par Value (File No. 7-7895)

Burlington Northern Inc., Cum. Pref., $10.00 Par Value (File No. 7-7896)

Castle & Cooke, Inc., Dep ⅛ $12.50 Conv. Exch. Pref., No Par Value (File No. 7-7897)

CIGNA Corporation, Series A Cum. Conv. Pref. Stock, $1.00 Par Value (File No. 7-7898)

City Investing Company, Conv. Pref. Stock, $1.00 Par Value (File No. 7-7899)

Commonwealth Edison Company, (Pr. A) $1.425 Cum. Conv. Pref., No Par Value; (Pr. C) $1.90 Cum. Pref., No Par Value; (Pr. D) $2.00 Cum. Pref., No Par Value (File No. 7-7900)

The Continental Group, Inc., Cum. Conv. "A" Pref., $1.00 Par Value (File No. 7-7901)

Cooper Industries, Inc., Conv. Pref. Stock, $1.00 Par Value (File No. 7-7902)

Crown Zellerbach Corporation, Cum. Pref. Stock, No Par Value (File No. 7-7903)

Di Giorgio Corporation, Conv. Pref. Stock, No Par Value (File No. 7-7904)

First Pennsylvania Corporation, Conv. Dep. Pref. Stock, No Par Value (File No. 7-7905)

General Motors Corporation, Cum. Pref. Stock (Pr. B), No Par Value (File No. 7-7906)

Georgia-Pacific Corporation, (Pr. A) $2.24 Conv. A Pref., No Par Value; (Pr. B) $2.24 Conv. B Pref., No Par Value; (Pr. C) $2.24 Conv. C. Pref., No Par Value (File No. 7-7907)

The Hallwood Group Incorporated, 7% Participating Conv. Pref., $8.00 Par Value (File No. 7-7908)

Home Depot, Inc., Common Stock, $.05 Par Value (File No. 7-7909)

IC Industries, Inc., Cum. Conv. 2nd Pref. Stock, No Par Value (File No. 7-7910)

ITT Corporation, (I Pr.) $4.50 Cum. Conv. I Pref., No Par Value; (K Pr.) $4.00 Cum. Conv. K Pref., No Par Value; (N Pr.) $2.25 Cum. Conv. N Pref., No Par Value (File No. 7-7911)

The LTV Corporation, Cum. Conv. B Pref. (Pr. B), $1.00 Par Value (File No. 7-7912)

Mattel, Inc., Cum. Conv. Pref. Stock Series A, $1.00 Par Value (File No. 7-7913)

Occidental Petroleum Corporation, (Pr. A) $4.00 Cum. Conv. Pref., $1.00 Par Value (Pr. B) $3.00 Cum. Conv. Pref., $1.00 Par Value (File No. 7-7914)

Orion Pictures Corporation, Class C Conv. Preference Stock, No Par Value (File No. 7-7915)

Pitney Bowes, Inc., Conv. Pref. Stock, No Par Value (File No. 7-7916)

RCA Corporation, Conv. Pref. Stock (Pr. C), No Par Value (File No. 7-7917)

The Signal Companies, Inc., Conv. Pref. Stock (Pr. B), $1.00 Par Value (File No. 7-7918)

Talley Industries, Inc., Series B Conv. Pref. Stock, $1.00 Par Value (File No. 7-7919)

Transco Energy Company, Conv. Pref. Stock, No Par Value (File No. 7-7920)

Trans World Airlines, Inc., Cum. Conv. Pref. Stock (Pr. B), No Par Value (File No. 7-7921)

UAL, Inc., Series B Conv. Pref. Stock, No Par Value (File No. 7-7922)

Union Pacific Corporation, Conv. Pref. Stock, No Par Value (File No. 7-7923)

United Brands Company, Cum. Conv. Pref., No Par Value (File No. 7-7924)

United Technologies Corporation, Cum. Conv. Pref. (Pr. D), $1.00 Par Value (File No. 7-7925)

Western Air Lines, Incorporated, Cum. Conv. Pref. (Pr. A), No Par Value (File No. 7-7926)

CalMat Company, Capital Stock, $1.00 Par Value (File No. 7-7927)

Matrix Corporation, Common Stock, $1.00 Par Value (File No. 7-7928)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27129 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Super Food Services, Inc., Common Stock, $1.00 Par Value (File No. 7–7959)
Data-Design Laboratories, Common Stock, $.33⅓ Par Value (File No. 7–7960)
SL Industries, Inc., Common Stock, $.20 Par Value (File No. 7–7961)
Esselte Busines Systems, Inc., Common Stock, $1.00 Par Value (File No. 7–7948)
Elscint Ltd., Ordinary Shares, $.025 Par Value (File No. 7–7949)
Hughes Supply Inc., Common Stock, $1.00 Par Value (File No. 7–7950)
Hasbro Bradley Inc., Common Stock, $.50 Par Value (File No. 7–7951)
Nerco, Inc., Common Stock, No Par Value (File No. 7–7937)
Great American First Savings Bank, Common Stock, $1.00 Par Value (File No. 7–7938)
Applied Data Research, Inc., Common Stock, $.25 Par Value (File No. 7–7939)
Electrospace Systems, Inc., Common Stock, $.01 Par Value (File No. 7–7890)
The Fur Vault, Inc., Common Stock, $.01 Par Value (File No. 7–7891)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27130 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 9, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Ceco Industries, Inc., Common Stock, No Par Value (File No. 7–7776)
Equitec Financial Group, Inc., Common Stock, $.01 Par Value (File No. 7–7777)
Winners Corporation, Common Stock, $.05 Par Value (File No. 7–7778)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 30, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27126 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 9, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Pan Am Corporation (Delaware) (Holding Company), Common Stock, $.25 Par Value (File No. 7–7962)
Cenergy Corporation, Common Stock, $.25 Par Value (File No. 7–7963)
Questar Corporation, Common Stock, $2.50 Par Value (File No. 7–7964)
Club Med, Inc., Common Stock, $1.00 Par Value (File No. 7–7965)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 30, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–27127 Filed 10–12–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Philadelphia Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 4, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Madison Resources, Inc., Common Stock, $1.00 Par Value (File No. 7–7958)
Pioneer Corporation, Common Stock, $1.00 Par Value (File No. 7–7959)

These securities are listed and registered on one or more other national

securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 26, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27128 Filed 10-12-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Memorandum of Understanding Between Small Business Administration and Export-Import Bank of the United States

On August 30, 1984, the Small Business Administration and the Export-Import Bank of the United States executed a Memorandum of Understanding which authorizes SBA and Eximbank to co-guarantee export revolving line of credit loans.

The following is a copy of such document.

Dated: October 9, 1984.

James C. Sanders,

Administrator.

Memorandum of Understanding Between the Small Business Administration and the Export-Import Bank of the United States

This Agreement entered into this 30th day of August, 1984, between the Small Business Administration (SBA) and the Export-Import Bank of the United States (Eximbank).

Witnesseth That:

Whereas, section 7(a) of the Small Business Act, as amended, authorizes the SBA Administrator to guarantee export revolving line of credit loans extended by U.S. commercial banks and other financial institutions;

Whereas, section 206 of the Bank Export Services Act authorizes Eximbank to provide guarantees for loans extended by financial institutions or other creditors to export trading companies and other exporters; and

Whereas, Eximbank and SBA agree that small business exporting concerns will be more efficiently and effectively served by the issuance of co-guarantees by Eximbank and SBA with respect to working capital loans extended by financial institutions to small business exporters.

Now, Therefore, the parties hereto do mutually agree as follows:

General Conditions

1. *Co-Guarantee.* SBA and Eximbank shall severally co-guarantee ("Co-Guarantee(s)") eligible working capital loans ("Loan(s)") extended by United States financial institutions ("Bank(s)") to United States small business exporters and export trading companies ("Borrower(s)"), in accordance with the terms and conditions set forth herein.

2. *Amount and Percentage of Co-Guarantee.* The Co-Guarantees shall extend to Loans in principal amounts reanging from $200,000 to $1,000,000 on a per Borrower basis and shall cover 90% of the principal of such Loans ("Guaranteed Amount"), with interest thereon. SBA shall guarantee 50% of the Guaranteed Amount ("SBA Participation") and Eximbank shall guarantee 50% of the Guaranteed Amount ("Eximbank Participation"), unless a greater or lesser percentage is otherwise approved as provided herein. The Bank shall retain for its sole risk 10% of the principal and interest on the Loan ("Bank Participation").

3. *Purpose.* Loans eligible for Co-Guarantees shall be used for the following export-related purposes:

(a) The purchase of goods for export;

(b) The purchase of materials, component parts, goods, services and/or labor to be used in producing goods or services for a future or existing export sale; or

(c) Foreign business development such as marketing, travel expenses, trade fair participation or other promotional activities.

4. *Security.* Each Loan shall be secured by a security interest in inventories of exportable goods, export accounts receivables, accounts receivables from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications or such other collateral as SBA and Eximbank may deem appropriate ("Liens").

5. *Terms and Conditions of Co-Guarantee.* Except as provided herein, the terms and conditions of Co-Guarantees shall be determined by SBA rules and regulations for export revolving line of credit loans, including without limitation the rate of interest guaranteed and guarantee fees. Such Co-Guarantees shall be evidenced by documents in form and substance satisfactory to Eximbank and SBA.

Operating Guidelines

1. *Loan Application, Processing and Evaluation.* All applications for Co-Guarantees of Loans shall be processed through the nearest SBA branch or district office serving the area where the business is located. SBA shall use its current application forms to evaluate and process applications for Co-Guarantees and shall follow its standard guidelines and procedures in evaluating such applications, including the determination of creditworthiness and reasonable assurance of repayment of each Loan. In considering Loan applications, SBA shall require that each Loan be secured by Liens and such other security as is necessary to provide reasonable assurance of repayment of the Loan.

2. *Eximbank Approval.* (a) If, after its evaluation of the Loan application, SBA determines that (i) it will co-guarantee the Loan according to the percentage of the SBA Participation, and (ii) in its opinion, Eximbank should co-guarantee the Loan according to the percentage of the Eximbank Participation, then SBA will submit to Eximbank its recommendation substantially in the form of the APPLICATION AND CO-GUARANTEE APPROVAL (Annex A hereto), accompanied by supporting documentation. The APPLICATION CO-GUARANTEE APPROVAL and supporting documentation shall be transmitted to Eximbank by certified or registered mail and shall be addressed to the Office of Exporter Credits and Guarantees, Attention: Vice President, with a copy of the transmittal to the SBA Deputy Associate Administrator/Finance Assistance (SBA DAA/FA). Eximbank at any time may consult with the SBA DAA/FA with respect to any Loan submitted for Eximbank's approval.

(b) If Eximbank approves the SBA recommendation for Eximbank Participation, Eximbank will submit to the SBA DAA/FA a copy of the APPLICATION AND CO-GUARANTEE APPROVAL, signed by an authorized representative of Eximbank. This executed APPLICATION AND CO-GUARANTEE APPROVAL will, among other things, give SBA the authority to sign the requisite Co-Guarantee documents on behalf of Eximbank.

(c) If Eximbank chooses to Co-Guarantee the Loan in an amount or percentage less than the SBA-recommended Eximbank Participation, Eximbank shall so advise the SBA DAA/FA in writing so that discussions can be conducted to resolve the matter.

(d) SBA will advise Eximbank of the date of closing with respect to each Co-Guarantee or, if applicable, the cancellation and date thereof for any Co-Guarantee.

3. *Eximbank Sole Participation.* In cases where, after evaluation by the respective SBA branch or district office and, if applicable, review and concurrence by the appropriate SBA regional office, (a) SBA determines a Loan application does not qualify under SBA program eligibility requirements (other than Loan amount), (b) SBA declines to offer the SBA Participation or (c) SBA decides that a Loan in excess of $1,000,000 is reasonable and justified, the appropriate SBA office will forward to Eximbank the completed Loan application and accompanying data (without recommendation but with SBA's reasons for not co-guaranteeing the Loan) for Eximbank's sole review and determination. SBA shall also advise the applicant Bank and Borrower in writing of its declination and of the transmittal of the Loan application to Eximbank. If Eximbank approves the application for its sole guarantee, Eximbank will determine the terms and conditions of its guarantee and will coordinate the servicing of the Loan with the Bank. Eximbank will also

advise the appropriate SBA regional office and the SBA DAA/FA in writing of its approval.

4. *Guarantee Fees.* SBA and Eximbank will share *pro rata* the guarantee fees charged for Co-Guarantees in the same relation that the risk is shared between SBA and Eximbank under the Co-Guarantee. SBA shall pay to Eximbank Eximbank's share of any guarantee fees within five (5) business days of notification to the SBA Central Office of receipt of such fee from the Bank.

5. *Servicing.* SBA shall undertake the servicing of all Loans co-guaranteed by SBA and Eximbank.

6. *Rescheduling of Loans.* SBA shall advise Eximbank in writing of its consent to and the conditions of any rescheduling of the repayment terms on a Loan co-guaranteed by SBA and Eximbank concurrently with SBA's issuance of such consent to the Bank.

7. *Assignment.* SBA shall obtain the prior written consent of Eximbank to any assignment by a Bank of its rights under the Eximbank Participation of the Co-Guarantee.

8. *Notice of Adverse Change/Non-payment.* SBA shall notify Eximbank in writing within ten (10) days after receipt by SBA of information pertaining to any material adverse change in the financial or other condition of a Borrower or non-payment by a Borrower of any amounts due under a Loan co-guaranteed by SBA and Eximbank, and thereafter, SBA shall provide quarterly reports to Eximbank on the status of such Loan.

9. *Notice of Claim.* SBA shall notify Eximbank in writing within ten (10) days of receipt of any demand made by a Bank on SBA for purchase of a Loan under a Co-Guarantee.

10. *Payment of Claim.* After SBA has examined all claim documentation, it will determine in its sole discretion whether or not claim payments shall be made and shall so advise Eximbank at least five (5) business days prior to the date of payment by Eximbank of any claim under the Eximbank Participation. Eximbank shall make all claim payments under the Eximbank Participation by transferring funds to SBA for payment by SBA to the Bank. Payment by Eximbank to SBA shall be made one (1) business day prior to funds being disbursed by the United States Treasury on behalf of SBA to the Bank.

11. *Consultation.* Upon payment of a claim under a Co-Guarantee, SBA and Eximbank shall consult from time to time in regard to collection thereof; provided, however, that SBA shall have the exclusive right to pursue collection of all amounts due itself and Eximbank under the Co-Guarantee.

12. *Recoveries.* SBA will share all amounts recovered on claims paid under Co-Guarantees and any expenses incurred in connection therewith with Eximbank and the respective Bank on a *pro rata* basis. Internal operating expenses of the SBA shall be for the sole account of SBA. Within five (5) business days of notification to the SBA Central Office of receipt of any amounts recovered, SBA shall pay to Eximbank its proportionate share of such amounts, accompanied by the appropriate SBA Loan identification number and the date of recovery. Similarly, Eximbank shall pay to SBA its proportionate share of recovery expenses paid by SBA within five (5) business days of receipt of a billing from SBA for such expenses, together with the appropriate SBA Loan identification number. At the time of SBA's charge-off of any Loan, SBA shall provide Eximbank with a copy of the final status of the claim reconciliation account.

13. *Periodic Reporting.* SBA shall provide Eximbank with periodic reports, at least quarterly, on the status of Loans co-guaranteed by SBA and Eximbank. Such reports shall include the following: (a) A listing of each Loan co-guaranteed by SBA and Eximbank, including a breakdown of SBA, Eximbank and Bank Participations; and (b) a listing of each such Loan in default, including a breakdown of the amount of claims (if any) paid out by SBA and Eximbank.

Miscellaneous

1. *Instructions to SBA.* Explanations of and procedures to be used under this Memorandum of Understanding, together with a list of countries in which Eximbank is restricted from doing business, will be issued from time to time by Eximbank which shall transmit same to the SBA DAA/FA. In the event of any conflict between such Instructions to SBA and this Memorandum of Understanding, the provisions of this Memorandum of Understanding shall control.

2. *Modifications.* SBA and Eximbank may negotiate modifications to this Memorandum of Understanding to clarify, expand, or revise its terms. Either party may request negotiations to effect changes.

3. *Termination by Notice.* On 60-days written notice, SBA or Eximbank may terminate this Memorandum of Understanding. Any such termination shall have no effect on the obligation of both SBA and Eximbank to continue to honor this Memorandum of Understanding with respect to all outstanding Loans co-guaranteed by SBA and Eximbank, whether or not such Loans are in default.

4. *Assignment.* Neither SBA nor Eximbank shall assign its respective rights, duties, responsibilities, or obligations under this Memorandum of Understanding without the written consent of the other party.

5. *Continuing Interchange.* SBA and Eximbank commit themselves not to initiate or implement any policy or procedure which would substantially change the terms and conditions of or materially adversely impact on Co-Guarantees issued pursuant to this Memorandum of Understanding. SBA and Eximbank agree to use their best efforts in the implementation of this Memorandum of Understanding and to consult on a continuing basis with respect to the terms and conditions of and procedures for Co-Guarantees.

Export-Import Bank of the United States.

William H. Draper,

President and Chairman.

Small Business Administration.

James C. Sanders,

Administrator.

Application and Approval of Co-Guarantee (Part 1) to the Export-Import Bank of the United States

(To Be Completed by the SBA)

(Submit in Duplicate)

Date: _____

The Small Business Administration ("SBA") hereby recommends approval of the transaction described below for your several co-guarantee in accordance with the terms and conditions of the Memorandum of Understanding between SBA and Eximbank and any amendments thereto, and this Application and Approval of Co-Guarantee.

1. SBA guarantee number: ———.

2. Check one:

☐ Purchase of goods for export

☐ Purchase of materials and/or labor to be used in producing goods and services for a future or existing export sale

☐ Foreign business development, e.g. marketing, travel expenses, trade fair participation or other promotional activities

3. Applicant bank (name, address, city, state, zip).

4. Exporter or export trading company (name, address, city, state, zip).

5. Location of manufacturer(s) (if any) (name, address, city, state, zip code): (State none if none).

6. Foreign purchaser (if any) (name, address, city, country): (State none if none).

7. Guarantor(s) (name, address, city, country): (Joint and Several, if more than one) (State none if none).

8. Security (List whether inventory of exportable goods, or export accounts receivable, both, or any other type of collateral).

9. Description of products (if any) (state quantity, model numbers, etc.): ☐ New ☐ Used.

10. Amounts:

(i) Loan Amount ———.

(ii) SBA/Eximbank Financed Amount (90% of Loan Amount): ———.

a. SBA Risk (50% of Financed Amount) ———.

b. Eximbank Risk (50% of Financed Amount) ———.

(iii) Applicant Bank's Risk (10% of Loan Amount) ———.

11. Term of repayment: ———.

12. SBA Loan Officer (Name and Telephone Number): ———.

Small Business Administration

By _____

Title _____

Application and Approval of Co-Guarantee (Part 2)

(To be completed by Eximbank)

SBA Guarantee No.———

Export Trading Co. ———

Exporter———

Purchaser ———
Guarantor ———
Date ———
Eximbank Loan Officer ———
Telephone ———

Eximbank hereby approves the foregoing transaction for guarantee under the terms and conditions of the Memorandum of Understanding between SBA and Eximbank subject to the following:

A. Eximbank liability: Not to exceed principal liability of $———.

B. Term of repayment: ———.

C. Guarantee fee: Applicant bank shall pay to SBA a guarantee fee for the benefit of Eximbank in the amount of $ ———.

D. Availability: Eximbank shall not be obligated to issue its guarantee hereunder subsequent to the close of business on ——— .

Export-Import Bank of the United States

By ———
Title ———

[FR Doc. 84-27179 Filed 10-12-84; 8:45 am]
BILLING CODE 6025-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Materials Transportation Bureau

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 1984. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3187-X	DOT-E 3187	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.119(m), 173.21(b), 173.218, 173.221(a)(3).	To authorize shipment of flammable liquids or organic peroxides in various non-DOT and DOT specification containers. (Mode 1).
3330-X	DOT-E 3330	Western Zirconium, Inc., Ogden, UT	49 CFR 173.214(d)	To authorize use of containers not presently prescribed in hazardous materials regulations, for transportation of certain flammable solid material. (Modes 1, 2).
4108-P	DOT-E 4108	Mid-South Oxygen Co., Memphis, TN	49 CFR 173.315(a)	To become a party to exemption 4108. (Mode 1).
4453-X	DOT-E 4453	Gulf Oil Products Co., Houston, TX	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1).
5493-X	DOT-E 5493	Montana Sulphus & Chemical Co., Billings, MT.	49 CFR 172.504(a), 173.314(c)	To authorize shipment of hydrogen sulfide in DOT specification 105A600W tank cars. (Mode 2).
5704-X	DOT-E 5704	U.S. Department of Defense, Washington DC.	49 CFR 173.62, 173.93(e)	To authorize transport of certain class A and B explosives in prescribed non-DOT specification steel drums (Modes 1, 2, 3).
6071-X	DOT-E 6071	The Boeing Co., Seattle, WA	49 CFR 173.304, 173.305, 175.3	To authorize use of non-DOT specification pressure vessels, for transportation of nonflammable compressed gases. (Modes 1, 2, 4, 5).
6518-X	DOT-E 6518	Syntex Chemicals Inc., Boulder, CO	49 CFR 172.101, 172.302, 173.119, 173.134, 173.154.	To authorize shipment of specified pyrophoric liquids and solids, water reactive solid and certain other flammable liquids, in non-DOT specification steel portable tanks or cylinders. (Modes 1, 3).
6538-X	DOT-E 6538	Pan Products Inc., Macedonia, OH	49 CFR 173.304(d)(3)(ii), 178.33	To authorize a propane butane mixture as an additional commodity. (Modes 1, 3).
6610-X	DOT-E 6610	Arco Chemical Co., Pasadena, TX	49 CFR 173.221	To authorize shipment of an organic peroxide in DOT specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1, 2).
6668-X	DOT-E 6668	Union Carbide Corp., Danbury, CT	49 CFR 173.304(a)(2), 178.57	To authorize shipment of liquid oxygen in non-DOT specification insulated, welded cylinders. (Modes 1, 2).
6672-X	DOT-E 6672	Chandler Evans Inc., West Hartford, CT	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of welded or seamless, nonrefillable non-DOT specification steel cylinders, for transportation of certain nonliquefied compressed gases. (Modes 1, 2, 4).
6694-X	DOT-E 6694	Compagnie des Containers Reservoris, Paris, France.	49 CFR 173.315	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, 3).
6694-X	DOT-E 6694	Eurotainer S.A., Paris, France	49 CFR 173.315	Do.
6694-X	DOT-E 6694	Fauvet-Girel, Paris, France	49 CFR 173.315	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, 3).
6695-X	DOT-E 6695	do	49 CFR 173.315	To authorize use of a non-DOT specification IMO type 5 portable tank, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3).
6765-P	DOT-E 6765	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 173.318(a), 176.76(h)(4)	To become a party to exemption 6765. (Modes 1, 3).
6927-X	DOT-E 6927	Bromine Compounds Ltd., Beer-Sheva, Israel.	49 CFR 173.353	To authorize use of a non-DOT specification portable tank, for transportation of certain class B poisonous liquids. (Modes 1, 3).
6927-X	DOT-E 6927	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.264(b)(4)	Do.
6932-X	DOT-E 6932	Eurotainer, S.A., Paris, France	49 CFR 173.264(B)(4)	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of anhydrous hydrofluoric acid. (Modes 1, 3).
6932-X	DOT-E 6932	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.264(b)(4)	Do.
6932-X	DOT-E 6932	Fauvet-Girel, Paris, France	49 CFR 173.264(b)(4)	Do.
6963-X	DOT-E 6963	I.S.C. Chemicals Limited, Bristol, England	49 CFR 173.264(a), 173.264(b)	To authorize use of non-DOT specification intermodal portable tanks, for transportation of hydrofluoric acid and anhydrous hydrofluoric acid. (Modes 1, 3, 4).
6971-X	DOT-E 6971	Chem Service, Inc., West Chester, PA	49 CFR Parts 100-199	To authorize transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes, overpacked in a strong wooden or fiberboard box. (Modes 1, 2, 3, 4, 5).
7052-X	DOT-E 7052	Allen-Bradley Co., Milwaukee, WI	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4).
7052-P	DOT-E 7052	Pointer, Inc., Tempe, AZ	49 CFR 172.101, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, 4).
7052-X	DOT-E 7052	Bren-Tronics, Inc., Commack, NY	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Panasonic Industrial Co., Secaucus, NJ	49 CFR 172.101, 175.3	Do.
7052-X	DOT-E 7052	Matsushita Battery Industrial Co., Osaka, Japan.	49 CFR 172.101, 175.3	Do.

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7275–X	DOT–E 7275	Express Airways, Inc., Sanford, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), part 107, appendix B.	To authorize carriage of certain class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4).
7285–X	DOT–E 7285	Compagnie des Containers Reservoirs (CCR), Paris, France.	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, 3).
7285–X	DOT–E 7285	Fauvet-Girel, Paris, France	49 CFR 173.315(a)	Do.
7285–X	DOT–E 7285	Parlefer S.A.R.L., Paris, France	49 CFR 173.315(a)	Do.
7650–X	DOT–E 7650	ICI Americas, Inc., Wilmington, DE	49 CFR 173.315	To authorize use of non-DOT specification vacuum insulated steel portable tanks for shipment of certain nonflammable compressed gases. (Modes 1, 3, 4).
7811–X	DOT–E 7811	U.S. Department of Energy, Washington, DC.	49 CFR 173.119(a)(23), 173.245(a)(18), 173.346(a)(21), 173.347(a)(6), 175.3, 178.210.	To authorize use of DOT specification 12A corrugated fiberboard box with handholes, for shipment of certain corrosive, flammable, and class B poisonous liquid. (Modes 1, 2, 3, 4).
7823–X	DOT–E 7823	Allied Corp., Morristown, NJ	49 CFR 173.246	To authorize transport of iodine pentafluoride in non-DOT specification welded stainless steel cylinders complying with DOT specification 4BW with certain exceptions. (Modes 1, 2, 3).
7835–X	DOT–E 7835	Ideal Gas Products, Inc., Edison, NJ	49 CFR 177.848, part 107, appendix B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1).
7840–X	DOT–E 7840	General Dynamic Corp., Fort Worth, TX	49 CFR 173.87, 175.3, 176.83	To authorize transport of a class C explosive and a nonflammable compressed gas, in the same non-DOT specification fiberboard shipping container. (Modes 1, 2, 3, 4, 5).
7840–X	DOT–E 7840	Douglas Aircraft Co., Long Beach, CA	49 CFR 173.87, 175.3, 176.83	Do.
7951–X	DOT–E 7951	Avoset Food Corp., Pleasanton, CA	49 CFR 173.306(b)(1), 175.3, 178.33	To authorize transport of an aerosol foodstuff in a nonrefillable metal container, complying with DOT specification 2P with certain exception. (Modes 1, 2, 3, 4, 5).
7951–P	DOT–E 7951	Swift & Co., Oak Brook, IL	49 CFR 173.306(b)(1), 175.3, 178.33	To become a party to exemption 7951. (Modes 1, 2, 3, 4, 5).
8060–X	DOT–E 8060	SLEMI, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, 3).
8060–X	DOT–E 8060	Fauvet-Girel, Paris, France	49 CFR 173.315(a)	Do.
8060–X	DOT–E 8060	Parlefer, Paris, France	49 CFR 173.315(a)	Do.
8091–X	DOT–E 8091	AT&T Technologies Inc., Greensboro, NC	49 CFR parts 100–177	To authorize transport of certain mercury relays, exempted from 49 CFR 100–177, in heat sealed glass vials. (Modes 4, 5).
8101–X	DOT–E 8101	U.S Department of Defense, Washington, DC.	49 CFR 173.392(c)(7), 173.392(c)(8)	To authorize use of the EXPLOSIVES A placard only when 30mm GAU–8 (PGU–14/B) armor piercing ammunition, containing a depleted uranium metal projectile, is loaded in the same shipping container with PGU–13/B ammunition, & eliminated need to label packages as containing radioactive material. (Modes 1, 2, 3).
8111–X	DOT–E 8111	U.S Department of Energy, Washington, DC.	49 CFR 173.304(a), 175.3	To authorize use of non-DOT specification welded, stainless steel cylinders for transportation of a nonflammable gas mixture. (Modes 1, 2, 3, 4, 5).
8125–X	DOT–E 8125	Compagnie des Containers Reservoris, Paris, France.	49 CFR 173.123, 173.315	To authorize use of non-DOT specification portable tanks, for transportation of certain flammable and nonflammable gases and flammable liquids. (Modes 1, 2, 3).
8125–X	DOT–E 8125	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	Do.
8129–P	DOT–E 8129	Acurex Corp., Mountain View, CA	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	To become a party to exemption 8129. (Mode 1).
8129–P	DOT–E 8129	The University of New Mexico, Albuquerque, NM.	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8129–P	DOT–E 8129	Bryson Industrial Services, Inc., Lexington, SC.	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8129–P	DOT–E 8129	McKesson Corp., Dublin, CA	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8129–P	DOT–E 8129	University of Colorado, Boulder, Boulder, CO.	49 CFR 177.834(k), Part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8129–P	DOT–E 8129	The University of Arizona, Tucson, AZ	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8129–P	DOT–E 8129	Aqua-Tech, Inc., Port Washington, WI	49 CFR 177.834(k), part 173, subparts D, E, F, H, subparts K, L, M, O.	Do.
8141–P	DOT–E 8141	Altus Corp., San Jose, CA	49 CFR 172.101, 173.206, 173.247	To become a party to exemption 8141. (Modes 1, 3).
8141–X	DOT–E 8141	GTE Products Corp. Waltham, MA	49 CFR 172.101, 173.206, 173.247	To authorize transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride in non-DOT specification wooden boxes. (Modes 1, 3).
8248–P	DOT–E 8248	Ceramatals, Inc., New York, NY	49 CFR 173.245, 173.247, 173.271, 178.170.	To become a party to exemption 8248. (Mode 1).
8248–P	DOT–E 8248	C.M. China Trade, Inc., New York, NY	49 CFR 173.245, 173.247, 173.271, 178.170.	Do.
8248–P	DOT–E 8248	China Metallurgical Import & Export Corp., Shanghai, China.	49 CFR 173.245, 173.247, 173.271, 178.170.	Do.
8445–P	DOT–E 8445	The University of New Mexico, Albuquerque, NM.	49 CFR 173, subparts D, E, F, & H	To become a party to exemption 8445. (Mode 1).
8445–X	DOT–E 8445	Rohm and Haas Co., Philadelphia, PA	49 CFR 173, subparts D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1).
8445–X	DOT–E 8445	Union Carbide Corp., Danbury, CT	49 CFR part 173, subparts D, E, F, & H	Do.
8445–P	DOT–E 8445	The University of Iowa, Iowa City, IA	49 CFR 173, subpart D, E, F, & H	To become a party to exemption 8445. (Mode 1).
8445–X	DOT–E 8445	University of Minnesota, Minneapolis, MN	49 CFR part 173, subpart D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1).
8445–P	DOT–E 8445	Hopkins Agricultural Chemical Co., Madison, WI.	49 CFR part 173, subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1).
8445–P	DOT–E 8445	Triangle Resource Industries, Columbia, SC.	49 CFR part 173, subpart D, E, F, & H	Do.

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8445-P	DOT-E 8445	Bryson Industrial Services, Inc., Lexington, SC.	49 CFR part 173, subpart D, E, F, & H	Do.
8464-X	DOT-E 8464	Garrett Pneumatic Systems Division, Tempe, AZ.	49 CFR part 173.302(a)	To authorize manufacture, marking and sale of non-DOT specification nonreusable, nonrefillable toroidal pressure vessels for transportation of nonflammable, nonliquefied gases. (Modes 1, 4, 5).
8467-X	DOT-E 8467	Societe Auxiliarie de Transports et d' Industries Paris, France.	49 CFR 173.315	To authorize use of non-DOT specification IMO type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, 3).
8467-X	DOT-E 8467	ANF-Industrie, Paris, France	49 CFR 173.315	Do.
8554-P	DOT-E 8554	Wampum Hardware Co., New Galilee, PA	49 CFR 173.114a, 173.154, 173.93	To become a party to exemption 8554. (Mode 1).
8674-X	DOT-E 8674	Gulf Oil Chemicals Co., Houston, TX	49 CFR 173.114a(b)	To authorize shipment of blasting agents in a non-DOT Specification cement mixer, lined with cold tar epoxy. (Mode 1).
8793-X	DOT-E 8793	American Chemical & Refining Co., Inc., Waterbury, CT.	49 CFR 173.352(a), 175.3	To authorize shipment of a potassium cyanide solution, n.o.s. in DOT specification 2E polyethylene bottles of one-gallon capacity, packed no more than four to a DOT specification 12B fiberboard. (Modes 1, 4).
8867-X	DOT-E 8867	3M Co., Saint Paul, MN	49 CFR 173.119(k), 175.3	To authorize shipment of a certain viscous flammable liquid, n.o.s. in a polyvinyl chloride bottle, overpacked six to a DOT specification 12B fiberboard box. (Modes 1, 2, 4).
8871-X	DOT-E 8871	Bulk Lift International Inc., Carpenterville, IL.	49 CFR 173.182, 173.217, 173.245(b)	To authorize manufacture, marking and sale of large, collapsible polyethylene lined woven polypropylene bulk bags, having a capacity of approximately 2,000 pounds each, and top and bottom outlets, for shipment of corrosive solids and nitrates. (Modes 1, 2, 3).
8883-X	DOT-E 8883	Hewlett-Packard Co., Boise, ID	49 CFR 173.245(a)(38)	To authorize transport of an oxidizer in DOT specification 57 polyethylene lined portable tanks. (Mode 1).
8891-X	DOT-E 8891	BIC Corp., Milford, CT	49 CFR 173.21, 173.308	To authorize not more than two cigarette lighters containing flammable gas to be packed in the same inner container, overpacked in corrugated fiberboard boxes. (Modes 1, 2).
8900-X	DOT-E 8900	Justus Enterprises of Kansas, Inc., Chanute, KS.	49 CFR 173.302(a), 175.3	To authorize manufacture, marking and sale of welded non-DOT specification stainless steel cylinders complying with DOT specification 3HT, for transportation of nonflammable gases. (Modes 1, 2, 3, 4, 5).
8913-X	DOT-E 8913	Eurotainer, S.A., Paris, France	49 CFR 173.119(a)(25)	To authorize use of non-DOT specification IMO type 5 portable tanks, for shipment of flammable liquids. (Modes 1, 2, 3).
9017-P	DOT-E 9017	Mobay Chemical Corp., Pittsburgh, PA	49 CFR 173.264(b)	To become a party to exemption 9017. (Modes 1, 2, 3).
9176-X	DOT-E 9176	Minnesota Valley Engineering, New Prague, MN.	49 CFR 173.304(a), 177.840(a)(1)	To update design of the authorized cylinder and to add a new design cylinder for shipment of carbon dioxide. (Mode 1).
9284-X	DOT-E 9284	Mac Const., Inc., Oakwood, VA	49 CFR 173.315(a)	To authorize transport of gaseous methane, in a DOT specification MC-330 or MC-331 carto tank motor vehicle. (Mode 1).

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9030-N	DOT-E 9267	LND Inc., Oceanside, NY	49 CFR 173.302, 175.3	To authorize a larger capacity ionization chamber for shipment of a compressed gas, n.o.s. (Modes 1, 2, 3, 4, 5).
9156-N	DOT-E 9156	Johnson Controls, Inc., Milwaukee, WI	49 CFR 173.258(a)(3)	To authorize shipment of electrolyte (acid) battery fluid (sulfuric acid packaged in one container of 80 ounce capacity overpacked in a DOT Specification 12B fiberboard box. (Modes 1, 2).
9180-N	DOT-E 9180	M & G Tankers Limited, West Midlands, England.	49 CFR 173.119, 178.340, 178.341	To authorize manufacture, marking and sale of non-DOT specification cargo tanks manufactured from fiber reinforced plastics, for shipment of flammable liquids. (Mode 1).
9224-N	DOT-E 9224	Tractor MBA, E. Camden, AR	49 CFR 173.28(m) (2), 173.28(m)(3)	To authorize reuse of DOT specification 17C steel drums, for shipment of magnesium, classed as a flammable solid, without subjecting drums to certain retest, and marking requirements. (Mode 1).
9237-N	DOT-E 9237	Morton Thiokol Inc., Elkton, MD	49 CFR 173.88(e)(2)(ii), 173.92	To authorize shipment of rocket motors, Class B explosive of 1,450 to 2,500 pound capacity each in specially designed packaging. (Mode 1).
9248-N	DOT-E 9248	Kross Inc., San Fernando, CA	49 CFR 173.1200, 173.154a	To authorize transport of a safety kit containing 2 fifteen minute highway fusees as a consumer commodity. (Mode 1).
9269-N	DOT-E 9269	Columbia Nitrogen Corp., Augusta, GA	49 CFR 173.154(a)(17)	To authorize shipment of ammonium nitrate solution, containing not less than 15 pct water, classed as an oxidizer in DOT specification 103DW tank car tanks. (Mode 2).
9272-N	DOT-E 9272	Rentokil, Inc., Norcross, GA	49 CFR 173.346	To authorize shipment of a poison B liquid, n.o.s. in DOT specification 57 steel portable tanks of 340 gallon capacity. (Modes 1, 3).
9274-N	DOT-E 9274	Schweigers Inc., Britton, SD	49 CFR 173.315(k)(1), 173.33(d)(1), 177.824(e).	To authorize use of one non-DOT specification steel cargo tank having a design pressure of 200 psig, hydrostatic tested to 375 psig, for shipment of liquefied petroleum gas. (Mode 1).
9288-N	DOT-E 9288	Joseph Land Intermodal, Inc., Orlando, FL.	49 CFR 173.24(a)(1), 174.3, 176.3, 177.809, 177.817, part 107, appendix B.	To authorize the controlled release of ethylene contained in DOT specification 3A or 3AA cylinders, in the cargo carrying body of the transport vehicle, for the purpose of ripening fruits and vegetables. (Modes 1, 2).
9296-N	DOT-E 9296	Honeywell Inc., Minneapolis, MN	49 CFR 172.500, 173.202	To authorize transport of limited quantities of liquid sodium potassium alloy packaging bearing the DANGEROUS WHEN WET label in motor vehicles and rail cars which are not placarded FLAMMABLE SOLID W. (Modes 1, 2).

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9303-X	DOT-E 9303	Fastline Shipping Corp., Miami, FL	49 CFR 171.12, 173.86, 176.11	To authorize a foreign-flag vessel (M/V PATRICK) to transport packages of explosives which are described, classed, packaged, marked and labeled in accordance with the International Maritime Dangerous Goods Code through United States waters and to unload and load such packages of explosives. (Mode 3).
EE 9319-N	DOT-E 9319	Dearborn Chemical Co., Lake Zurich, IL	49 CFR 173.245(a)(38)	To authorize use of DOT specification 57 steel portable tanks, for water treatment compounds or boiler compounds, liquid that are not alkaline. (Modes 1, 2).

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3992-X	Dow Chemical Co., Plaquemine, LA	49 CFR 173.314	To authorize transport of anhydrous hydrogen chloride in a DOT specification 105A600W or 105S600W tank car. (Mode 2).

DENIALS

8393-X ..... Request by Union Carbide Corporation, Danbury, CT to authorize use of non-DOT specification vacuum insulated cargo tanks, for shipment of certain nonflammable gases denied as being unnecessary September 27, 1984.

9238-X ..... Request by International Minerals & Chemical Corporation, Mundelein, IL to authorize shipment of methylamine, dimethylamine and trimethylamine described as methylamine anhydrous or methylamine aqueous, as appropriate denied September 10, 1984.

9261-N ..... Request by Petroplex Acidizing, Inc., Midland, TX to authorize shipment of hydrochloric acid, corrosive materials, in unlined DOT Specification MC-312 cargo tanks denied September 10, 1984.

Issued in Washington, DC, on October 4, 1984.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation Materials Transportation Bureau.

[FR Doc. 84-27052 Filed 10-12-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 4, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

U.S. Customs Service

OMB Number: 1515-0114.
Form Number: None.
Type of Review: Extension.
Title: Trademark Recordation.
Clearance Officer: Vince Olive, (202) 566-9181, U.S. Customs Service, Room 2130, 3101 Constitution Avenue, NW., Washington, D.C. 20229.
OMB Reviewer: Judy McIntosh, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports, Management Office.

[FR Doc. 84-27149 Filed 10-12-84; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

Privacy Act of 1974: Routine Uses

AGENCY: Department of Treasury, Office of the Secretary.

ACTION: Notice of routine uses for Treasury/OS 00.052—Travel Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, Department of Treasury, the Office of the Secretary gives notice by this publication of new routine uses for the systems of records: Treasury/OS 00.052 Travel Records last published in the **Federal Register** on May 2, 1982 (47 FR 16468). The purpose of these routine uses is to take advantage of certain debt collection procedures, techniques, and services authorized by the Debt Collection Act of 1982, Pub. L. 97-365, 96 Stat. 1749 (1982).

One use deals with the disclosure of debtor mailing addresses obtained from the Internal Revenue Service. Section 8 of the Debt Collection Act provides for such disclosure to third parties for the purpose of collecting or compromising Federal Claims. Accordingly, addresses obtained by the Office of the Secretary from the Internal Revenue Service will be released to credit reporting agencies to obtain commercial credit reports and to debt collection agencies to recover claims.

Disclosure of debtor information to effect both salary and administrative offsets comprise two additional uses. Sections 5 and 10 of the Debt Collection Act provide for such disclosure. As some offsets may only be effected through inter-agency cooperation, the Office of the Secretary in those instances, will release debtor information to other agencies. All procedural steps to ensure due process, as provided in the Debt Collection Act, will be implemented.

Another use envisions the routine disclosure of debtor records to debt collection agencies. Section 13 of the Debt Collection Act authorizes the head of an agency or his designee to enter into contracts for collection services. As such contracts necessitate the disclosure of most data in a debtor's file, section (m) of the Privacy Act provides for two safeguards. By contract, the debt collection agency selected will be responsible for complying with the Privacy Act. In addition, collection agencies are liable under the criminal provisions of the Privacy Act as "employees of the (Federal) agency." The Office of the Secretary intends to avail itself of such services whenever necessary to collect its debts.

Appropriate protective clauses will be incorporated into all contracts.

The next use deals with obtaining commercial credit reports. Debtor information will be disclosed to consumer reporting agencies for this purpose. Only the minimum identifying data necessary to obtain a report will be released. These reports may be used internally by the Office of the Secretary in assessing a debtor's ability to repay a debt or they may be released to a debt collection agency or to the Department of Justice. Claims referred to the Department of Justice for litigation must be accompanied by current credit data. (41 CFR 105.3). Such reports must support a reasonable prospect of effecting enforced collections. In most cases, a commercial credit report is the only means of obtaining the needed information.

Sections 5, 8, 10, and 13 of the Debt Collection Act, comprise the necessary authority to meet the Privacy Act's "compatibility" requirement for the above-described routine uses. That is, they provide a statutory basis for agencies to assume that such disclosure are compatible with the purpose for which the data was originally collected.

The final use entails the disclosure of certain debtor information to consumer reporting agencies. The purpose of the disclosure is to make available delinquency and default data to private sector credit grantors. To guard against indiscriminate disclosures in this area, Congress placed stringent limitations on the procedures to be observed when releasing debtor information. Hence, before disclosing debtor information, the Office of the Secretary will implement the due process requirements established in section 3(d) and only that information directly related to the identity of the debtor and the history of the claim will be released. Debtor information will consist of the following: The individual's name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

Although disclosure of debtor information to consumer reporting agencies falls under the (b)(12) exemption of the Privacy Act, and not the (b)(3) exemption for routine uses, the intended use by the Office of the Secretary of such data is being published at the end of the routine use sections for OS 00.052. This is being done in accordance with OMB's Guidelines on the Relationship of the Debt Collection Act of 1982 to the Privacy Act of 1974. (48 FR 15556, April 11, 1983.) The primary concern is editorial consistency.

DATE: Comments must be received no later than 30 days after the publication of this notice. If no comments are received, the proposed routine uses will become effective November 14, 1984.

ADDRESS: Comments may be sent to: Director (Financial Management), Office of the Secretary, Main Treasury Building, Room B–36, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Charles J. Costello (202) 566–3746, Accounting Officer, OS.

Dated: October 9, 1984.

Joseph E. Bishop,

Deputy Assistant Secretary (Administration), for Operations.

Treasury/OS 00.052

SYSTEM NAME:

Travel Records—Treasury/OS.

SYSTEM LOCATION:

Financial Management Division, Room B–36, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals authorized to perform travel for the Office of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form OS–3015, Authorization to Perform Travel with the SF 1012, Travel Voucher, which details travel performed and expenses incurred with necessary receipts to support the claim for reimbursement to the traveler; SF 1038, Request for Advance of Funds, and similar records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–5709.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

(1) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

(2) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

(3) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

(4) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(5) To furnish another federal agency information to effect inter-agency salary offset; to furnish another federal agency information to effect inter-agency administrative offset, except that no IRS address information will be disclosed to another agency from this system; to furnish a consumer reporting agency information to obtain commercial credit reports; and to furnish a debt collection contractor information for debt collection services. Current mailing addresses acquired from the Internal Revenue Service and which become a part of this system are routinely released to consumer reporting agencies to obtain credit reports and to debt collection agencies for collection services as necessary.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original document forms in file cabinet.

RETRIEVABILITY:

Filed by name on a fiscal year basis.

SAFEGUARDS:

Non-sensitive material handled routinely in regular file cabinet.

RETENTION AND DISPOSAL:

Presently retained for three years and then forwarded to the National Records center for an additional seven years, then burned or shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Financial Management, Room B–36, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category

and type of records sought, and (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar infomation). Address inquiries to Chief, Disclosure Branch (See access below).

RECORD ACCESS PROCEDURES:

Chief, Disclosure Branch, Department of the Treasury, Room 5423, 15th and Pennsylvania Avenue, NW., Washington, D.C. 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Facts and figures are presented by the individual who performed the authorized travel.

[FR Doc. 84-27184 Filed 10-12-84; 8:45 am]
BILLING CODE 4810-25-M

[Department Circular; Public Debt Series—No. 28-84]

Treasury Notes of October 15, 1991, Series G-1991; Invitation for Tenders

October 5, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,500,000,000 of United States securities, designated Treasury Notes of October 15, 1991, Series G-1991 (CUSIP No. 912827 RG 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2.Description of Securities

2.1. The securities will be dated October 17, 1984, and will bear interest from that date, payable on a semiannual basis on April 15, 1985, and each subsequent 6 months on October 15 and April 15 until the principal becomes payable. They will mature October 15, 1991, and will not be subject to call for redemption prior to maturity. In the event as interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, October 10, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later then Tuesday, October 9, 1984, and received no later than Wednesday, October 17, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; Primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final.

If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Wednesday, October 17, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the insitution to which the tender was submitted, which must be receved from institutional investors not later than Monday, October 15, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit for their Treasury Tax and Loan Note Accounts on or before Wednesday, October 17, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested from of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for an make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jenes Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-27096 Filed 10-10-84; 10:36am]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series—No. 29–84]

Treasury Bonds of 2004; Invitation for Tenders

October 5, 1984

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,000,000,000 of United States securities, designated Treasury Bonds of 2004 (CUSIP No. 912810 DM 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated October 18, 1984, and will bear interest from that date, payable on a semiannual basis on May 15, 1985, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 2004, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other non-business day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible

bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday October 11, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, October 10, 1984, and received no later than Thursday, October 18, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Thursday, October 18, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, October 16, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, October 18, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not

furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-27097 Filed 10-10-84; 10:36 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Grants Program; Private Not-For-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate.

Comparative National and Community Approaches to Rural and Urban Drug Abuse USIA is interested in supporting a 6-day workshop and follow-on program presenting comparative approaches to urban and rural drug abuse. The workshop will be held in a South American country. The program will serve as a forum for the sharing of information and experience both at a national and community level regarding the control of illegal narcotics production, interdiction of supply, and prevention of domestic use and abuse. Emphasis will be on the shared internal problems encountered by Colombia, Peru, Bolivia, Ecuador, Venezuela, and Brazil and potential solutions found in their experience and that of other countries in the region. The workshop aims to achieve several objectives: the establishment of new links among South American and U.S. organizations; the transfer of information about community pilot program failures and successes; the heightening of public awareness of drug problems confronting their countries; clarification of U.S. policies; reduction of South American stereotyping that U.S. concerns do not include requisite sensitivity to indigenous ethnic, attitudinal and cultural factors affecting policy programming; and the creation of new practical programs and indirect support for institution building.

Your submission of a letter indicating interest in the above project concept begins the consultative process. This letter should further explain why your organization has the substantive expertise and logistical capability to successfully design, develop and conduct the above project.

Emphasis during the preliminary consultative process will be on identifying organizations whose goals and objectives clearly complement or coincide with those of USIA. Furthermore, USIA is most interested in working with organizations that show promise for innovative and cost effective programming; and with organizations that have substantial potential for obtaining third party private sector funding in addition to USIA support. Organizations must also demonstrate a potential for designing programs which will have a lasting impact on their participants. In your response, you may also wish to include other pertinent background information. To be eligible for consideration, organizations *must* postmark their general letter of interest within 20 days of the date of this notice.

This is not a solicitation for grant proposals. After consultation, selected organizations will be invited to prepare proposals for the limited financial assistance available.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs (Attn: Initiative Programs), United States Information Agency, 301 4th Street S.W., Washington, D.C. 20547

Dated: October 10, 1984.

Albert Ball,

Deputy Director, Office of Private Sector Programs.

[FR Doc. 84-27148 Filed 10-12-84; 8:45 am]

BILLING CODE 8230-01-M

Grants Program; Private Not-For-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

Latin American Electronic Media Exchange Program. USIA is interested in supporting a pilot exchange program for a group of ten to twelve Latin American electronic media journalists from CIESPAL (Centro Internacional de Estudios Superiores de Periodismo para America Latina) in Quito, Ecuador to take place in the Spring or Summer of 1985. The working journalists, graduate students at CIESPAL from various Latin American countries, would be brought to this country for a three week program of in-depth classroom sessions and briefings on various aspects of the electronic media, together with on-site tours and with possibly some portion of the program (maximum one week) to be spent in a working environment of U.S. media (Spanish-language when appropriate). Participants will be Spanish speakers.

Your submission of a letter indicating interest in the above project concept begins the consultative process. This letter should further explain why your organization has the substantive expertise and logistical capability to successfully design, develop and conduct the above project.

Emphasis during the preliminary consultative process will be on identifying organizations whose goals and objectives clearly complement or coincide with those of USIA. Furthermore, USIA is most interested in working with organizations that show promise for innovative and cost effective programming; and with organizations that have substantial potential for obtaining third party private sector funding in addition to USIA support. Organizations must also demonstrate a potential for designing programs which will have a lasting impact on their participants. In your response, you may also wish to include other pertinent background information. To be eligible for consideration, organizations *must* postmark their general letter of interest within 20 days of the date of this notice.

This is not a solicitation for grant proposals. After consultation, selected organizations will be invited to prepare proposals for the limited financial assistance available.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (ATTN: Initiative Programs), United States Information Agency, 301 4th Street S.W., Washington, D.C. 20547

Dated: October 10, 1984.

Albert Ball,

Deputy Director, Office of Private Sector Programs.

[FR Doc. 84-27147 Filed 10-12-84; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 200
Monday, October 15, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, October 17, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Older Consumers: Final Report

The staff will brief the Commission on a final report on the Fiscal Year 1984 priority project on Safety for Older Consumers.

2. FHSA Conspicuousness Labeling Rule: Final

The staff will brief the Commission on amendments to the type size, placement, and conspicuousness requirements for labeling under the Federal Hazardous Substances Act.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301—492–6800.

October 10, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-27210 Filed 10-11-84; 10:59 am]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: See Times Below, Thursday, October 18, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Commission Staff Briefing—8:30 a.m.

The staff will brief the Commission on various matters.

Closed to the Public.

2. Compliance Status Report—10:00 a.m.

The staff will brief the Commission on a compliance status report.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

October 10, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-27211 Filed 10-11-84; 10:59 am]

BILLING CODE 6355-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:20 p.m. on Wednesday, October 10, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Rexford State Bank, Rexford, Kansas, which was closed by the Kansas State Bank Commissioner on Wednesday, October 10, 1984; (2) accept the bid for the transaction submitted by Peoples State Bank of Rexford, Rexford, Kansas, a newly-chartered State nonmember bank subsidiary of JEST, Inc., Oakley, Kansas; (3) adopt an order approving the applications of Peoples State Bank of Rexford, Rexford, Kansas, for Federal deposit insurance, and for consent to purchase certain assets of and to assume the liability to pay deposits made in The Rexford State Bank, Rexford, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insuance Act (12 U.S.C. 1823(c) (2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), concurred in by Director Irvine H. Sprague (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the m atters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c) (8), (c) (9) (A) (ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 11, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84-27255 Filed 10-11-84; 3:18 pm]

BILLING CODE 6714-01-M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 49, Page No 39636, Date Published—Tuesday, October 9, 1984.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee, (202–377–6677).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board Meeting scheduled Monday, October 15, 1984, at 10:00 a.m.

Inclusion of Subordinated Debt as Regulatory Net Worth

J.J. Finn,

Secretary.

No. 97, October 11, 1984.

[FR Doc. 84-27250 Filed 10-11-84; 3:18 pm]

BILLING CODE 6720-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION

Change in subject of meeting.

The National Credit Union Administration Board determined that its business required that the previously announced open meeting on October 9,

1984 include an additional item, which was opened to public observation:

Central Liquidity Facility Fourth Quarter Dividend

The previously announced items were:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Final Rule: Implementing the NCUSIF Capitalization Legislation.
4. Consideration of the Operating Fee for Calendar Year 1985.

The meeting was held at 9:40 a.m., in the Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, D.C.

FOR MORE INFORMATION CONTACT:

Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84–27214 Filed 10–11–84; 10:59 am]

BILLING CODE 7535–01–M

federal register

Monday
October 15, 1984

Part II

Environmental Protection Agency

40 CFR Part 86

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Gaseous Emission Regulations for 1987 and Later Model Year Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Particulate Emission Regulations for 1987 and Later Model Year Heavy-Duty Diesel Engines; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2616-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Gaseous Emission Regulations for 1987 and Later Model Year Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Particulate Emission Regulations for 1987 and Later Model Year Heavy-Duty Diesel Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes that the following new standards be established for emissions of oxides of nitrogen: 1.2 or 1.7 grams per mile, depending on vehicle weight, for 1987 and later model year light-duty trucks (at both low and high altitude); 6.0 grams per brake horsepower-hour for 1987 and later model year heavy-duty engines; and 4.0 grams per brake horsepower-hour for 1990 and later model year heavy-duty engines. In addition, the following new particulate emission standards are proposed for heavy-duty diesel engines: For 1987 and later model years, 0.60 gram per brake horsepower-hour at low altitude and 0.72 gram per brake horsepower-hour at high altitude; and for 1990 and later model years, 0.25 gram per brake horsepower-hour at low altitude and 0.30 gram per brake horsepower-hour at high altitude. High-altitude standards for idle carbon monoxide of 0.50 percent of exhaust gas flow, and for particulate of 0.26 gram per mile for 1987 and later model year light-duty trucks, are also proposed. This action also proposes that an averaging program for heavy-duty diesel particulate emissions be implemented in the 1990 model year. Revisions to the allowable maintenance provisions applicable to light-duty vehicles and trucks and heavy-duty engines, and to the heavy-duty engine test procedure, are also proposed; these revisions would be effective for the 1987 model year. Finally, two technical corrections to the regulations promulgated on November 16, 1983 are proposed.

This proposal responds to mandates contained in the Clean Air Act Amendments of 1977, and to the environmental need for additional control of diesel particulate and oxides of nitrogen emissions. The proposal would hold 1995 emissions of these pollutants to approximately 1980 levels, thereby preventing deterioration in national air quality.

DATES: EPA will conduct public hearings on this Notice of Proposed Rulemaking on Monday, November 12, 1984 in Ann Arbor, Michigan, and on Wednesday, November 14, 1984 in Denver, Colorado. The first hearing will continue through Tuesday, November 13, 1984 if additional time is needed. The hearings will be convened at 9:00 a.m. and will adjourn at 5:00 p.m., or such later time as may be necessary for the completion of testimony. Comments on this proposal will be accepted until 30 days after the second public hearing (Friday, December 14, 1984). Additional information on the submission of comments and the public hearings can be found under the heading "Public Participation," in the Supplementary Information section of this Notice.

ADDRESSES: The first public hearing will be held in the Conference Room of the Environmental Protection Agency Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. The second hearing will be held in the Rm. 504, U.S. District Court House, 1929 Stout Street, Denver, CO 80294.

Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A-80-18, at: Central Docket Section (A-130), Environmental Protection Agency, Attention: Docket No. A-80-18, 401 M Street, SW., Washington, D.C. 20460.

Materials relevant to this rulemaking, including the Draft Regulatory Impact Analysis (which also satisfies the requirements of section 202(a)(3)(E) of the Clean Air Act for a NO_x Pollutant Specific Study), have been placed in Docket No. A-80-18 by EPA. The docket is located at the above address in the West Tower Lobby, Gallery I, and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged by EPA for copying of docket materials.

Note.—As detailed in the Supplementary Information section, this Notice of Proposed Rulemaking incorporates two previous rulemaking actions. For this reason, Docket No. A-80-31 (established in support of the Advance Notice of Proposed Rulemaking for oxides of nitrogen standards for heavy-duty engines) has been incorporated into Docket No. A-80-18 (established in support of the Notice of Proposed Rulemaking for particulate standards for heavy-duty diesel engines). Further submissions to either of these dockets should all be directed to Docket No. A-80-18, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Terry P. Newell (SDSB-12), U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4462.

SUPPLEMENTARY INFORMATION:

I. Development of the Proposal

Today's proposal is based upon specific statutory requirements found in the Clean Air Act as amended in 1977, and specific environmental problems related to emissions of nitrogen oxides (NO_x) and particulate matter. The statutory requirements and environmental needs will be described first, followed by a review of related actions already taken by EPA and of the chief alternatives considered in arriving at the final form of the proposal.

A. Statutory Requirements

1. Heavy-Duty Diesel Particulate Emissions

Section 202(a)(3)(A)(iii) of the Act directs the Administrator of EPA to establish standards for the emissions of particulate matter from heavy-duty diesel engines. According to that section, regulations are to require "the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available * * * giving appropriate consideration to the cost * * * and to noise, energy, and safety factors associated with the application of such technology." The Act further provides that these standards be implemented beginning in 1981, or any earlier practicable model year, taking effect as expeditiously as possible considering the period necessary for compliance.

This statutory description corresponds to what are generally referred to as "technology-forcing" standards. That is, they are to be based upon that technology which the Administrator determines *will* be available, and not necessarily that technology which is *already* available. The adoption of such standards helps to encourage and hasten the development of new technology. The precise definition of the greatest degree of reduction which will be available in this case includes "appropriate" consideration of cost and other factors. Thus, as will be seen, careful evaluation of the cost impacts of alternative technologies must be made before arriving at a decision on what standard to propose.

A final note on the statute concerns the model year provision in this section. This clearly presents a dilemma to EPA,

since the original compliance date of 1981 has already passed while standards have yet to be promulgated. EPA sees its present task as implementing particulate standards as soon as possible, while allowing manufacturers the necessary amount of time to reach compliance.

2. Heavy-duty Engine NO_x Emissions

Provisions for the control of NO_x emissions from heavy-duty engines are also found in Section 202(a)(3)(A) of the Act. Paragraph (a)(3)(A)(ii) calls for reducing NO_x emissions from heavy-duty engines by at least 75 percent from baseline levels of gasoline engines by the 1985 model year. This provision is modified, however, by two other provisions providing limited flexibility to the Agency in establishing NO_x standards. The first is paragraphs (a)(3)(B)–(D), which allow the temporary revision of the 75 percent reduction standard if compliance cannot be achieved without increasing cost or decreasing fuel economy to an "excessive and unreasonable degree." If this threshold requirement is met, the revised standard must then be based upon "the maximum degree of emission reduction which can be achieved by means reasonably expected to be available." The Administrator must report his findings to the Congress, analyzing health effects, cost-effectiveness, ongoing research and development programs of the manufacturers, and the relative costs and fuel economy impacts of the revised standards. In addition, the Administrator's findings must not be "substantially contrary" to any findings of the National Academy of Sciences.

Paragraph (a)(3)(B) further provides that any revised standard under this paragraph must be promulgated with four years of leadtime, and apply for only a three-year period. Following that, further reductions in emissions must be required. Under the timetable provided for in the Act, any determination of need for revised standards was to have taken place in the period from June 1 through December 31, 1980, and every third year thereafter.

The second provision for modification of the 75 percent reduction standard is paragraph (a)(3)(E), which allows the Administrator to change the standard based upon, (1) continuing pollutant specific studies of the effects of NO_x emissions from heavy-duty engines and other sources on "the public health and welfare," and (2) such other information available to him. While such a revision is subject to the same requirement for four model years of leadtime as a revision based upon technology, it is not restricted to a three-year period of applicability, and can therefore be a permanent change. In addition, revisions under paragraph (a)(3)(E) may be implemented at any time.

In summary, then, the Act calls for a 75 percent NO_x reduction standard unless temporarily revised due to cost or fuel economy reasons, or changed due to studies on the effect of emission on the public health and welfare, or other such information. The Act required such standards to be promulgated, with four years of leadtime, for the 1985 model year. Clearly, while four years of leadtime could still be provided, it is no longer possible to have revised standards in place for vehicles or engines manufactured in 1985. In this situation, EPA believes it appropriate to implement revised standards with less than four years of leadtime, in order to have them take effect as soon as possible after 1985, provided that such standards allow adequate time for compliance by the manufacturers. This conclusion is based on Congress' clear desire to have standards in place by 1985 (which is now impossible), as well as its apparent intent to provide manufacturers adequate leadtime to meet any standard different from the 75 percent reduction standard. Thus, if a standard is developed which is clearly attainable in less than four years, it would be inappropriate and unnecessary to delay its implementation beyond the period actually needed for compliance.

This approach might at first appear to be an attempt to shift the burden of a failure by EPA to adopt standards in time for 1985 from the Agency to the manufacturers. This is, however, not the case. The manufacturers have already benefited from a two-year delay in any new standard. Their need for adequate leadtime will be fully considered in the standards and model years for implementation which EPA eventually adopts.

NO_x standards for light-duty trucks are also included in today's proposal. This is because some light-duty trucks are included in the Act's definition of heavy-duty vehicles. The Act includes as "heavy-duty" all vehicles having a gross vehicle weight greater than 6,000 lbs. On the other hand, EPA's light-duty truck class includes all trucks up to 8,500 lbs gross vehicle weight. Those light-duty trucks with gross vehicle weights between 6,001 and 8,500 lbs are considered "heavy-duty" for purposes of the Act, and thus are subject to the 75 percent reduction requirement discussed above. In addition, standards for light-duty trucks with gross vehicle weights up to 6,000 lbs are being proposed under the general standard-setting authority of section 202(a) (1) and (2). This statutory provision does not mandate any specific percentage of emission reduction, but it does require that adequate leadtime be provided, "giving appropriate consideration to the cost of compliance."

B. Environmental Need

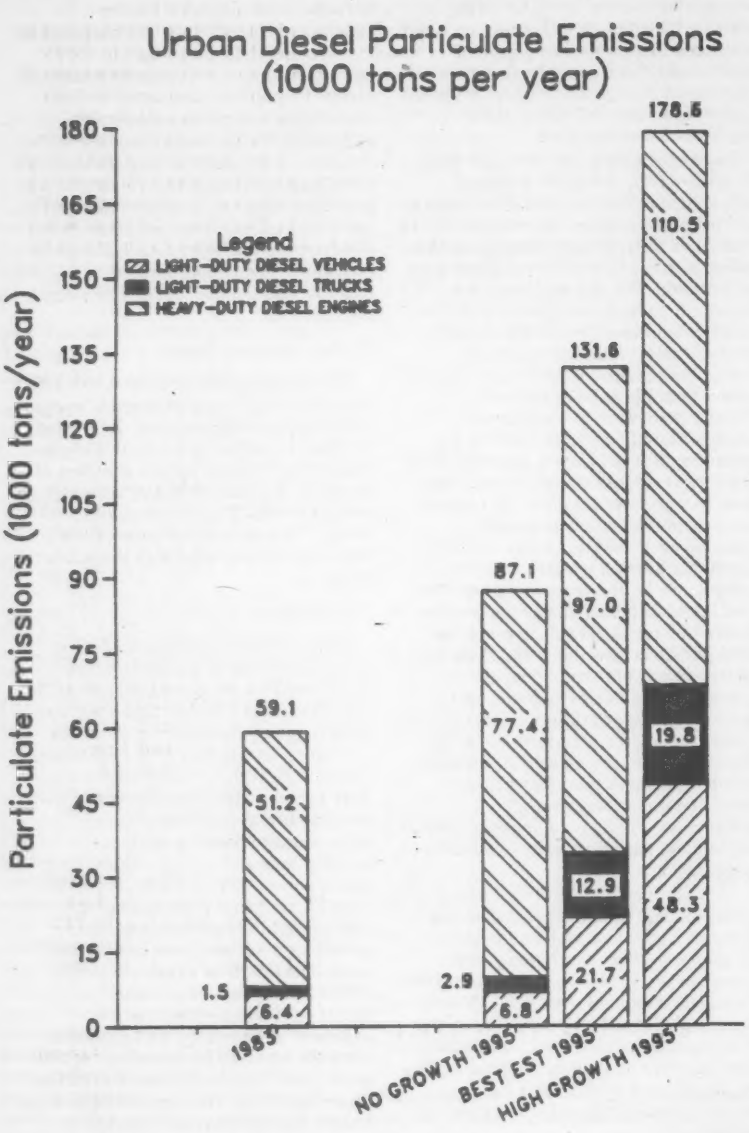
The following information is extracted from EPA analyses performed in support of this rulemaking proposal. Interested readers may refer to the particulate and NO_x environmental impact chapters of the Draft Regulatory Impact Analysis, as well as to the "Diesel Particulate Study" [1] for more information. Both documents are available in the public docket.

1. Particulate

Both current and estimated future urban emissions of particulate from diesel engines are given in Figure 1. The projections for the year 1995 are given for a range of assumptions about the market penetration of diesel light-duty vehicles, light-duty trucks and heavy-duty vehicles. This has been done because of the sensivity of the projections to diesel growth assumptions and the uncertainty that exists about future growth. It is clear from Figure 1 that regardless of the amount of future growth, significant increases in urban diesel particulate emissions are to be expected. Under EPA's best estimates of diesel sales, diesel particulate emissions are expected to double by 1995 if no new controls are enacted (standards of 0.20 gram per mile (g/mi) and 0.26 g/mi for diesel light-duty vehicles and light-duty trucks, respectively, are assumed to begin in 1987). Figure 1 also indicates that heavy-duty diesel engines play the dominant role in the overall emission picture. Heavy-duty diesels will contribute some 74 percent of total diesel particulate emissions in 1995 under best estimate sales projections.

[1] Diesel Particulate Study, U.S. EPA, OAR, OMS, ECTD.

Figure 1



The impact of these emissions on ambient air quality is significant. Current levels of diesel particulate emissions are estimated to contribute about 1 to 3 $\mu g/m^3$ of fine suspended particulate matter in urban areas. These concentrations will grow to about 2 to 8 $\mu g/m^3$ in 1995 under best estimate projections. Such increased concentrations are of serious concern considering the already widespread degree of nonattainment of the national ambient air quality standards for total suspended particulate matter. There are currently (1983) 190 nonattainment areas for the primary air quality standard. Under the Agency's proposed change to an inhalable particulate standard based upon material under 10 micrometers in diameter (49 FR 10408, March 20, 1984), the situation will be similar, with 71 to 246 counties currently projected to exceed the range of possible standards. The 1995 diesel particulate emissions will by themselves contribute 3 to 15 percent of the potential new standard under best estimate growth conditions. Thus additional control of diesel particulate emissions, beyond the existing 1987 light-duty diesel standards, is needed in order to move toward compliance with the proposed new ambient air quality standards.

There are also other factors acting to increase EPA's concern about diesel particulate emissions. Diesel particulate matter is all inhalable, unlike most sources of particulate emissions, which usually have a large fraction of larger, settleable particulate matter. In fact, diesel particulate falls almost exclusively in the size range known as fine particulate (less than 2.5 micrometers). Diesel particulate is also emitted near ground level directly into the breathing zone, giving it a proportionately greater impact on ambient concentrations. Particulate emissions from elevated smoke stacks or remote, non-urban locations are highly dispersed before reaching ground level in urban areas.

There is also a small potential cancer risk associated with inhalation of diesel particulate matter. EPA's assessment of the lung cancer risk over a wide range of assumptions, which is included in the Draft Regulatory Impact Analysis, indicates a risk factor between one and 6 per million in 1995. This risk represents between 2 and 8 percent of the current non-smoker risk of contracting lung cancer in the U.S.

Lastly, diesel particulate affects atmospheric visibility and soiling. EPA estimates for 1995 indicate a 21 percent reduction in visibility in the largest U.S. cities due to diesel particulate compared to the mid-1970's, a discernible degree of change. A 3 to 8 percent reduction is expected in smaller cities. The Agency's analysis of soiling effects indicates the potential for a greater than average impact from diesel particulate because of its low reflectivity and oily nature. However, even if it is assumed to be no worse than average, there still appears to be a significant economic cost associated with soiling caused by diesel particulate.

Overall, EPA believes that emissions of diesel particulate are a serious environmental concern. In order to deal effectively with this problem, significant reductions in emission rates from heavy-duty diesel engines are essential. It will

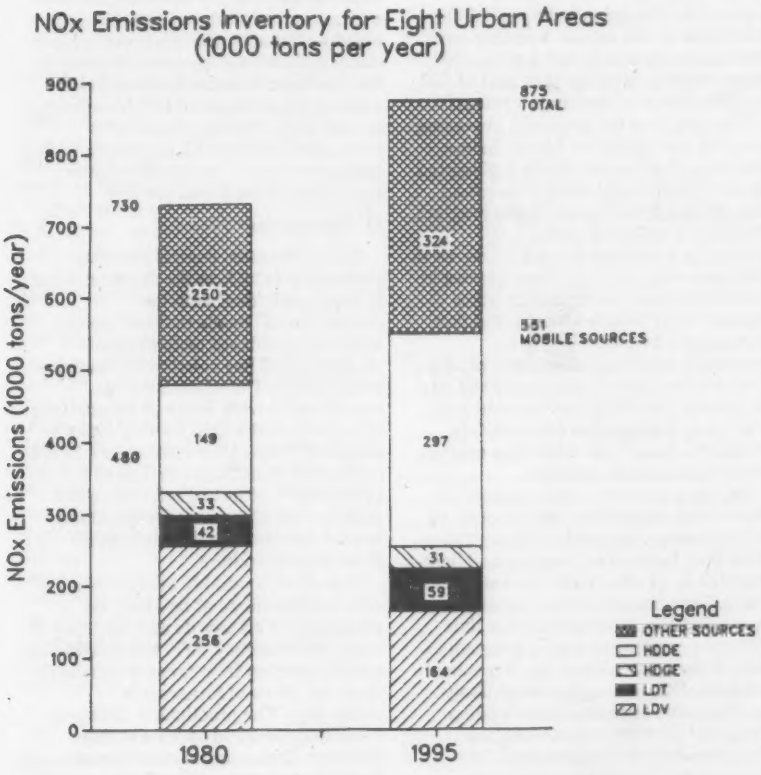
take over a 50 percent reduction in engine emission rates simply to prevent future growth in total emissions between 1983 and 1995.

2. Nitrogen Oxides

In analyzing NO_x emissions, EPA has focused on those locations most likely to be adversely affected. Eight urban areas were identified with ambient NO_2 levels within 25 percent of the ambient air quality standards. Projected NO_x emissions for these eight areas are shown in Figure 2. In these projections, point source emissions have been "discounted" to account for their relatively lower air quality impact compared to ground level sources.

The declining role of light-duty vehicle emissions is readily apparent in Figure 2, reflecting the impact of the 1.0 g/mi light-duty vehicle NO_x standard. However, comparison of the total emissions for mobile sources indicates that overall there will be growth in emissions from 1980 to 1995. Some of this growth comes from light-duty trucks, but most of it is due to increased heavy-duty diesel engine emissions. By 1995, heavy-duty diesels are expected to account for over one-third of the entire discounted NO_x inventory. Thus, as with particulate, control of heavy-duty diesel engines is central to the control of NO_x emissions. In fact, even with the reductions already expected for light-duty vehicles, the only way to offset growth in the other categories and keep total discounted emissions from increasing would be to hold heavy-duty diesel emissions to 1980 levels. It is also worth noting that emissions from heavy-duty gasoline engines are stable (actually declining slightly over the period), even without further control. This fact is due to the decline in sales expected for heavy-duty gasoline engines.

Figure 2



Current ambient levels of NO_2 are largely in compliance with the ambient air quality standards. However, the growth in emissions expected in future years will change that picture. While only one non-California urban area exceeded the NO_2 standards in 1980, five are projected to do so by 1995. Thus while current NO_x emission levels may be considered almost sufficient to attain the air quality standards, steps need to be taken to avoid future deterioration and non-compliance with the standards. In addition, there may or may not be environmental benefits associated with NO_x reductions beyond issues of NO_2 attainment. As has just been seen, control of heavy-duty diesel engines will be an essential element for success.

During the development of today's proposal, questions have been raised with respect to the accuracy of the NO_x emission projections cited above. EPA recognizes that uncertainties are inherent in projecting future emission imventories, and that these uncertainties increase when using projected emission inventories to project NAAQS attainment status. The NO_x emission projections used in the preceding discussion, and the emission projections and corresponding air quality impacts discussed in the environmental impact section of today's notice, are based on EPA's best estimates of the input assumptions at the time that the analyses were performed. However, EPA solicits comments on the assumptions and methodology used for its air quality projections.

C. Prior Related EPA Actions

Neither the statutory requirements nor the environmental questions described above represent new issues for EPA. Rather, today's proposal grows out of past actions taken to address these same needs.

A proposal for heavy-duty diesel particulate control was published on January 7, 1981 (46 FR 1910). That notice proposed that a particulate emission standard of 0.25 grams per brake horsepower hour (g/BHP-hr be implemented for heavy-duty diesels in the 1986 model year. This standard was expected to require the application of particulate trap technology to heavy-duty diesels, similar in concept to traps being developed for light-duty diesels. The proposal also included appropriate test procedures for particulate sampling based upon the new EPA transient test requirement.

At about the same time, EPA published an advance notice of proposed rulemaking announcing its intent to promulgate revised NO_x

emission standards for heavy-duty engines and light-duty trucks (46 FR 5838, January 19, 1981). The standards discussed in the notice were 1.2 g/mi for light-duty trucks and 4.0 g/BHP-hr for heavy-duty engines. Strickly speaking, neither of these standards corresponded to the 75 percent reduction requirement of section 202(a)(3)(A)(ii). The light-duty truck standard at that level would have been 0.9 g/mi, while the heavy-duty engine standard would have been 1.7 g/BHP-hr. As discussed in the advance notice, the 1.2 g/mi standard was chosen to provide a standard of equal stringency to the existing 1.0 g/mi light-duty vehicle NO_x standard, while the 4.0 g/BHP-hr standard was identified as the lowest standard applicable for heavy-duty diesels under the revision provisions of section 202(a)(3)(B).

Publication of these two notices produced a considerable degree of public response, and while no further regulatory action has been taken until today's proposal, EPA has remained active in its efforts to resolve the complex issues associated with NO_x and particulate control. A public hearing on both the particulate proposal and the NO_x advance notice was held in July 1982. More recently, EPA has engaged in an information gathering effort to gain a fuller understanding of the potential of both current and future technology to control NO_x and particulate from heavy-duty diesel engines. Comments received at and subsequent to the hearing, as well as all prior comments to EPA, are available in the public docket. All these comments and other information were reviewed in formulating the alternatives considered by EPA in deciding the final form of today's proposal.

EPA's decision to combine the particulate and NO_x actions into a single proposal rests in part on the similar timing of the two programs, but even more importantly on the technological interactions between particulate and NO_x control. Some technologies used to control diesel NO_x emission tend to increase particulate emissions. Therefore, the setting of these standards is best done in concert so that the tradeoffs can be dealt with and so that manufactures have a unified set of requirements to meet.

In addition to its information gathering actions, EPA has conducted a comprehensive study of the entire diesel particulate issue, both light- and heavy-duty [1]. This study carefully reexamines both the costs and environmental impacts of light-duty and heavy-duty particulate control in light of the evolution of control technology which has taken place since 1980, the changing role projected for diesel engines in the vehicle fleet, the interactions between NO_x and particulate control, and the new data on cancer-related health effects of diesel particulate. It also analyzes the feasibility and possible timing of various combinations of particulate and NO_x standards covering a board range of stringency.

Today's proposal contemplates the use of emissions averaging to measure compliance with particulate standards. EPA has previously evaluated averaging for particulate emissions in the light-duty area, and has concluded that averaging can be used there to reduce the cost of complying with emission standards without significant environmental penalty. (For a full discussion of these issues, see 48 FR 33456, July 21, 1983.) EPA views the flexibility of averaging as one way to improve the manufacturers' ability to comply with stringent standards. It increases the economic efficiency of the standards without decreasing the overall emission reductions they produce. EPA therefore expects particulate averaging to be part of the final rules in this action. The long-term particulate standards being proposed today consider averaging as part of the manufacturers' compliance strategy.

The details of the proposed averaging program are explained further below. One aspect which should be highlighted here is the proposal to exclude urban bus engines from the averaging program. EPA sees a potential problem if averaging were used in such a way as to eliminate traps on urban bus engines in trade for increased control for other engines. EPA believes it essential that bus engines be controlled to the maximum extent possible, both because they are key contributors to central city emissions, and because bus emissions are highly visible. Therefore, EPA is proposing to exclude urban bus engines from the averaging program.

EPA has also previously announced that it was considering the adoption of an averaging program for NO_x emissions from both heavy-duty engines and light-duty trucks (45 FR 79382, November 28, 1980). Even though it is not specifically proposing NO_x averaging at this time, EPA may implement such a program as part of the final rulemaking. If it were adopted, NO_x averaging would likely use the same approach as that being proposed for particulate. Gasoline-fueled and diesel engines might be required to average their emissions separately, as would heavy-duty engines and light-duty trucks. Comments are therefore requested on the topic of NO_x averaging and its usefulness in easing compliance with the long-term heavy-duty engine standards.

A final issue concerning mobile source emissions averaging (whether of particulate or NO_x) is the question of credits and trading. EPA is seriously considering the possibility of establishing a system whereby manufacturers could accumulate credits for engine emission levels which are below the standard, and then sell such credits to other manufacturers for use in offsetting excess emissions.

EPA believes that the concept of trading credits may aid in the resolution of some of the problems (*e.g.*, competitive impacts) seen as possible under an averaging program such as is proposed today. Thus, despite the fact that EPA is not proposing a specific program for the inclusion of credits and trading in the particulate averaging program, the Agency is seriously considering such a program. EPA specifically requests that commenters address the concepts of credits and trading in conjunction with averaging in terms of the possible mechanics of such a program, the potential benefits and negative impacts, and the potential cost savings if such an approach is taken in the final rule. Comments should also address the question of EPA's authority to establish a trading program for particulate and/or NO_x emissions within the constraints of the mobile source provisions of the Clean Air Act.

D. Alternatives

As will be seen, control of either particulate or NO_x to the degree needed to adequately deal with the environmental needs outlined above involves significant technological challenge and has substantial economic implications. Therefore, EPA has considered a wide range of alternatives in arriving at the final form of today's proposal. These alternatives, and EPA's evaluation of each, are reviewed below. Interested readers are referred to the Alternatives chapter of the Regulatory Impact Analysis for details beyond those presented here.

In general, available alternatives deal with combinations of two factors: stringency of standards and leadtime. In terms of stringency, EPA has considered options varying from no new standards up to the limits of foreseeable technology. The practicality of any of those technological options varies, however, depending on the time allowed for implementation. Therefore, varying amounts of leadtime have also been analyzed. Within the spectrum of standards and leadtime, there is in fact a near continuum of possible options.

EPA has attempted to focus specific options at points which are reasonably distinctive in one or more of three areas: technology, benefits, or required leadtime.

1. Heavy-duty Diesel Particulate

Identification of options. Clean Air Act requirements and the environmental situation both argue strongly for the early implementation of standards to control heavy-duty diesel particulate emissions. On the other hand, the technological barriers to major reductions are of the sort which may require considerable time and effort to overcome. Therefore, EPA has examined separate near- and long-term possibilities. The goal of the near-term options is to implement the greatest degree of control feasible without undue adverse impacts as soon as possible, while the longer term standards are oriented toward attaining more substantial and needed emissions reductions. Considering the time required to complete the rulemaking process and technology considerations for manufacturers to respond to an initial standard, EPA has identified 1987 as the earliest year for a standard. Beyond that, 1990 has been identified as allowing time for implementation of more advanced technology. For these two years, the specific options are identified below along with some of the key considerations for each.

Before turning to individual options, it is important to note that, although the particulate and NO_x options are considered separately here, they do in fact interact. In developing and analyzing the following options, EPA has fully considered those interactions when assessing feasibility, technology and cost. The process was carried out in a fashion which would insure the compatibility of the final selected options. For example, the assessment of the number of traps needed to meet the 1990 trap-based particulate options was done on the basis of the existence of the more stringent NO_x standard also expected for that year. The two pollutants are discussed separately for clarity of presentation, but readers should bear in mind that they are interrelated and are in the end to be viewed as pairs or particulate and NO_x standards.

For 1987:

No standard. This option represents the situation if EPA were to take no action to control heavy-duty diesel particulate emissions. In light of both the Clean Air Act mandate and the significant growth in particulate emissions which occur without particulate control, this is not a viable option.

0.60 g/BHP–hr. This option represents what EPA believes to be the lowest feasible level in the near term. Current engine emissions are in the 0.4 to 0.8 g/BHP–hr range. The target low mileage emission level associated with a 0.60 g/BHP–hr standard is about 0.46 g/BHP–hr. Thus, some engines already meet the required target, while reductions would be required of others. EPA believes such reductions are feasible with technology and engine calibration changes available in the short term. Such things as improvements in fuel injection systems, increased use of turbocharging, and improvements in engine efficiencies should be able to provide the reductions needed.

For 1990:

Since the 1990 options represent fairly stringent standards, the incorporation of an emissions averaging program in 1990 has been included for all but the "no further control" case. As noted earlier, averaging reduces the risk of non-compliance as well as the cost of stringent standards. It will find its greatest usefulness with the trap-based options.

No control beyond 0.60 g/BHP–hr. While 0.60 g/BHP–hr is a feasible limit for the near term standard, it produces relatively small per-vehicle reductions in particulate emissions. Overall, fleetwide heavy-duty diesel engine particulate emissions would increase by 65 percent between 1983 and 1995 under this option. In addition, such a standard for 1990 or later fails to take advantage of the technological progress that should be made in the three years after 1987. Therefore, 0.60 g/BHP–hr in 1987 without follow-on reductions could not be considered an adequate alternative for longer-term particulate control.

0.40 g/BHP-hr. In moving beyond the 0.60 g/BHP-hr level, EPA believes that a reduction to at least 0.40 g/BHP-hr will be essential to produce further meaningful progress in reducing diesel particulate emissions. This level represents both a sizeable reduction from the 0.60 g/BHP-hr level and EPA's determination of the approximate technological limit for reductions which could be reached without the application of particulate trap technology to heavy-duty diesel engines. It involves substantial improvement over present engines. Some of this improvement will come from techniques already being developed for improved performance and fuel economy (the full cost therefore not being attributable to new standards). However, this level also presumes the further development and application of advanced and costly technology, to a degree which cannot be precisely quantified at this time. Future controls will include such things as the anticipated application of electronic controls to engine operations like fuel injection and exhaust gas recirculation, the development of low heat rejection techniques and ceramic materials, increased fuel injection pressures, and other efficiency improving engine changes. Because of uncertainty regarding the mix of control technology which will eventually be used to meet the standard, costs are likewise uncertain. EPA's best judgment estimates are that the discounted lifetime costs for a 0.40 g/BHP-hr standard would be from $195 to $390 per vehicle, depending on fuel economy impact. Particulate emissions in 1995 would be reduced by 35 percent compared to the no-control case, but net heavy-duty diesel particulate emissions would still increase more than 20 percent from 1983 to 1995.

0.25 g/BHP-hr. Reducing particulate emissions to below 0.40 g/BHP-hr is expected to require the application of traps. Use of this technology is still in the early stages of development for heavy-duty diesels, and admittedly much more work is needed before traps will be feasible for production engines. Traps on heavy-duty diesel engines must perform successfully in an environment which is in some ways more challenging than that for light-duty diesel traps (for example, successful regeneration must be possible over a wider range of sustained operating temperatures), and must do so for a generally much longer useful life period. However, at this time EPA sees no insurmountable obstacles to successful application, especially given the substantial amount of leadtime remaining before such a standard would go into effect and the already advanced stage of particulate trap development for light-duty diesels.

EPA believes that it will not be possible to move below the 0.40 g/BHP-hr option without the introduction of trap technology. As the standard is lowered below that level, there would be an increasing use of traps within the fleet, with manufacturers making use of averaging to minimize the total number of traps required. Because EPA foresees that some applications will be technically more difficult than others, there is some advantage in a standard which does not require traps on all engines, so that the more technically difficult applications can be avoided. With averaging and a 0.25 g/BHP-hr standard, traps will be needed on an estimated 70 percent of the fleet. At this

level, heavy-duty diesel engine emissions would be controlled to the point where emissions in 1995 would be at or even slightly below those of 1983. These emissions represent about a 50 percent reduction from uncontrolled levels, at a per-vehicle cost of about $760 to $1,100, again depending on fuel economy impact.

Urban-oriented variations on 0.25 g/BHP-hr. There is wide variation between different heavy-duty diesel engine applications in the amount of total mileage accumulated within urban areas. Lighter heavy-duty diesels and such vehicles as transit buses, trash compactors, and cement mixers spend the predominant amount of their time in urban operation. Premium heavy-duty diesels used in over-the-road line-haul travel, on the other hand, accumulate most of their mileage in rural inter-city operation. Since EPA's main concern with diesel particulate emissions is their impact on urban air quality, two urban-oriented variations on the 0.25 g/BHP-hr trap option have been evaluated which attempt to focus control primarily on urban vehicles. Both of these variations maintain a non-trap standard for line-haul engines. (Line-haul engines in this case would be defined as those engines used in Class VIII trucks having gross vehicle weight ratings above 60,000 lbs.) Elimination of the need for traps on these vehicles would avoid the most difficult applications, in trade for a moderate loss in overall urban emission reduction. On the other hand, it is also true that line-haul vehicles would be best able to absorb the high cost of traps because of their already high initial cost compared to other heavy-duty diesel engine applications.

The line-haul standards considered are 0.60 and 0.40 g/BHP-hr. The 0.60 g/BHP-hr level is, of course, a much easier standard to meet than the 0.40 g/BHP-hr level. Unfortunately, even the small fraction of line-haul mileage which is urban in nature is sufficient to raise overall heavy-duty diesel particulate emissions in urban areas under this option to above those under a uniform 0.40 g/BHP-hr non-trap standard. Morever, 0.60 g/BHP-hr could not be considered a technology-forcing standard for line-haul engines in the 1990 timeframe. Thus, a 0.40 g/BHP-hr line-haul standard is the most logical choice to combine with the 0.25 g/BHP-hr trap-based standard. With this combination, there would be a loss of control of about 12 percent in urban areas as compared to the uniform 0.25 g/BHP-hr standard, and 1995 urban heavy-duty diesel engine emissions would be about 7 percent greater than 1983 levels. As can be seen from these figures, even predominantly over-the-road line-haul operation has a significant urban impact.

One difficulty which EPA has had with this approach has been that of developing a regulatory procedure for successfully separating urban from non-urban applications. Heavy-duty diesel engines are currently certified independently from vehicles, and a given engine may be used for a wide variety of applications. An urban designation would require identification of intended vehicle application, and since some engines would be used for both urban and non-urban applications, the manufacturer would be required to develop both trap and non-trap versions of the same engine to be able to take advantage of the optional standard. Such a situation might offer little advantage to the manufacturer. Additionally, an urban option might introduce unwanted competitive effects, for example by favoring manufacturers who made only those engines falling into the line-haul exclusion and who would not have to undertake the resource investments required of other manufacturers to develop trap systems.

0.10 g/BHP-hr. It was noted under the discussion of the previous option that a 0.25 g/BHP-hr standard can be met with traps on about 70 percent of the fleet if averaging is allowed. If the standard were further reduced until essentially 100 percent trap usage were required, the resulting level would be approximately 0.10 g/BHP-hr. This level thus represents the maximum degree of reduction of heavy-duty diesel particulate emissions that can be achieved with the use of trap technology.

Requiring traps on all engine families, however, would increase both the cost and the risk associated with the standard. The technical challenge of successfully applying traps to all engines is much greater than that of applying them to most engines, since in the latter case the manufacturers will be in a position to focus resources on predominant uses and avoid especially difficult cases. At the same time, a 0.10 g/BHP-hr standard would maximize the available emissions reduction, bringing about a 65 percent reduction from uncontrolled levels and reducing total 1995 heavy-duty diesel particulate emissions to a level 33 percent below those in 1983.

There is a modified application for the 0.10 g/BHP-hr option which relates to the control of urban bus emissions. As has been noted earlier in the discussion of averaging, EPA believes it is very important to obtain the maximum degree of control for urban buses. Therefore, in addition to excluding such engines from the averaging program, EPA is considering the establishment of a standard of 0.10 g/BHP-hr for bus engines to insure the fullest use of the emission reduction potential of traps.

Evaluation of particulate options. In its evaluation of all of the above options, EPA has considered a number of factors. These included the statutory requirements, anticipated costs and emission reductions, cost effectiveness, and technological requirements for compliance. Some of these factors have already been touched upon in discussion of the individual options. The following material provides further key information for comparing the impacts of the options.

The emissions impacts of the various options are shown in Figure 3, where the options are arranged in order of decreasing emissions. For comparison purposes, the level of 1983 emissions is also shown.

As can be seen, meaningful reductions from uncontrolled levels require a standard of 0.40 g/BHP-hr or lower. Even at that level, heavy-duty diesel particulate emissions in 1995 will be 23 percent higher than in 1983. To further regulate emissions so they do not increase above 1983 levels requires some form of a trap-based standard. Essentially meeting that goal are either the 0.25 or 0.10 g/BHP-hr standards, or the 0.25 g/BHP-hr standard with a 0.40 g/BHP-hr line-haul option. However, it is noteworthy that the 0.60 g/BHP-hr line-haul option does not perform especially well, having emissions actually somewhat higher than the across-the-board 0.40 g/BHP-hr standard. The 0.10 g/BHP-hr standard attains the maximum overall reduction, being 65 percent below the uncontrolled level and 33 percent below 1983 levels.

Figures 4a and 4b present other information related to the economic impacts of the options, in particular, cost effectiveness, which measures the economic efficiency of each option, and midpoint cost per engine (including operating costs). For clarity of presentation, the cost per engine values plotted are the midpoints of the ranges (based on possible fuel economy impacts) of estimated costs.

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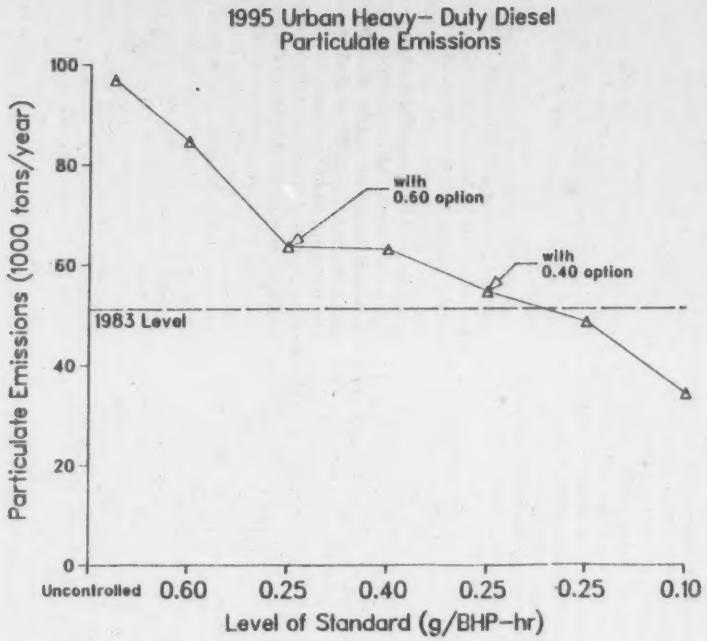
Figure 3



BILLING CODE 6560-50-C

Figure 4a

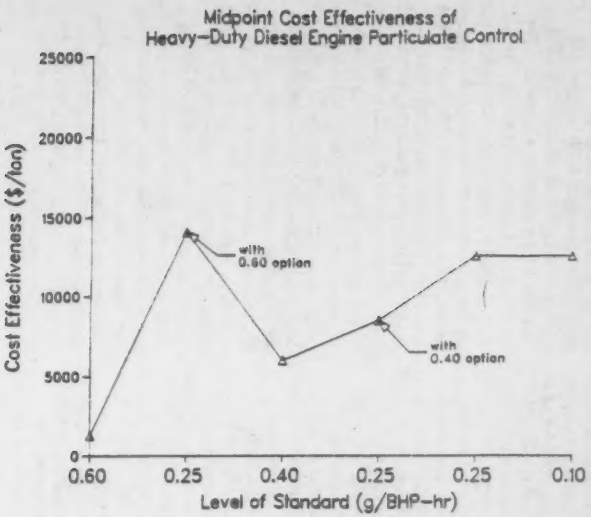
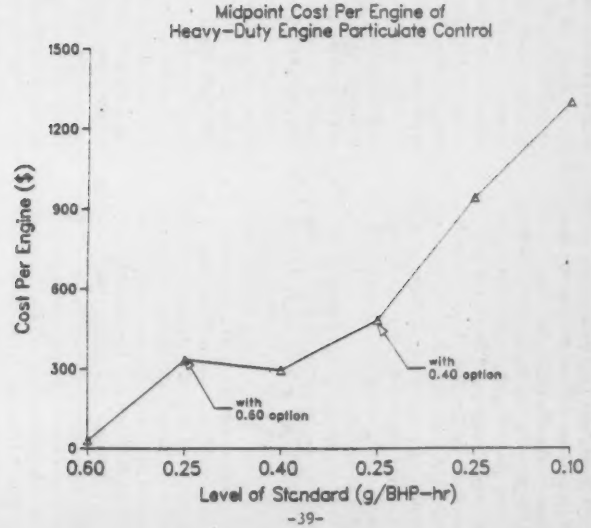


Figure 4b



Cost effectiveness values commonly increase (worsen) as the standards get lower. However, there are two exceptions to this trend in Figure 4a. These are the 0.25 g/BHP-hr standard combined with the 0.60 g/BHP-hr standard for line-haul trucks, which is the least cost effective of the options shown, and the 0.10 g/BHP-hr full-trap standard, where the cost effectiveness is shown as equal to that of the 0.25 g/BHP-hr standard.

The standard of 0.25 g/BHP-hr combined with 0.60 g/BHP-hr for line-haul trucks is the least cost effective of the options presented in Figure 4a. As was shown in Figure 3, urban heavy-duty diesel particulate emissions are actually slightly greater under this option than under an across-the-board standard of 0.40 g/BHP-hr. At the same time, 0.40 g/BHP-hr represents a non-trap option, while 0.25 g/BHP-hr with 0.60 g/BHP-hr for line-haul trucks would require about 70 percent of urban heavy-duty diesels to be equipped with traps. This results in substantially higher costs, relative to the 0.40 g/BHP-hr standard, while the total emissions reductions are slightly less. The resulting cost effectiveness value of about $15,000 per ton of urban particulate emission reduction makes this an unattractive option.

Turning to the 0.10 g/BHP-hr standard, EPA believes that the cost effectiveness of this standard will actually be somewhat worse than that of the 0.25 g/BHP-hr standard, but is not at this time able to quantify the difference. The maximum benefit and least cost applications will have already been used to meet the 0.25 g/BHP-hr standard (with averaging), so that subsequent use of traps on additional engines might be somewhat less cost effective. Among the factors arguing for higher cost at the 0.10 g/BHP-hr level are greater development costs, the need to design to lower low-mileage-target emission levels, the use of higher quality components, the probable need for more frequent trap regeneration, and the increased risks associated with in-use compliance. Accordingly, although emissions would be lower under a 0.10 g/BHP-hr standard, it appears that this standard would be less cost effective than is shown in Figure 4a.

On the other hand, Figure 4b indicates that even when these extra cost factors are not considered, these two options differ markedly in cost per engine, reflecting the increased use of traps at the 0.10 g/BHP-hr level.

Although not shown in Figure 3 or 4, EPA has also examined the impacts of a 0.25 g/BHP-hr standard implemented without the benefit of an averaging program. Such an approach requires 100 percent trap use, and therefore incurs essentially the same cost as the 0.10 g/BHP-hr standard does, although the use of some less efficient systems would be expected to reduce costs somewhat. The emission reduction benefits, however, remain virtually unchanged. The result is a clearly less efficient regulation, having a cost effectiveness of approximately $16,000 per ton.

Based upon the available information overall conclusions about some of the options are readily apparent. For 1987, the proposal of a 0.60 g/BHP-hr standard is the clear choice as the only option which generates feasible emission reductions in the near term. For 1990, on the other hand, continuing with 0.60 g/BHP-hr is not acceptable both because it produces insufficient emissions benefit and because it fails to satisfy the requirements of the Act. The beneficial effects of averaging, both on technological difficulty and on overall costs, also support the inclusion of this program for the long-term standards. This is true regardless of the level of the final standards, although there would be more benefit if a trap-based standard were promulgated.

Beyond these decisions, the choices for long-term standards become more difficult. Both the non-trap and trap-based standards will demand significant technological advances. Indeed, it appears that the technological difficulty of a 0.40 g/BHP-hr standard using non-trap techniques is at least as great for some engines as that of a 0.25 g/BHP-hr standard using traps. One of the risks of the 0.40 g/BHP-hr level is that it may in fact turn out to require traps to meet such a standard. Given this situation, EPA believes that a trap-based standard is preferable. Not only would it provide needed emission reductions at reasonable cost, but it would insure continued progress in the development of traps for heavy-duty diesel engines. Trap technology is being successfully applied to light-duty diesel engines and is expected to be available to meet 1987 standards for those vehicles. Failure by EPA to require the development of traps for heavy-duty diesels would not seem reasonable considering the statutory mandate and the significant urban impact of heavy-duty diesel particulate. Traps are unlikely to be applied to heavy-duty diesels unless standards require them. Finally, as has already been noted, even the 0.25 g/BHP-hr trap standard will succeed only in holding heavy-duty diesel emissions at current levels, making no actual reductions beyond that point.

Within the range of trap-based standards, there are four options. These are the 0.25 g/BHP-hr standard, the 0.25 g/BHP-hr standard with a line-haul option of either 0.60 or 0.40 g/BHR-hr, and the 0.10 g/BHP-hr standard. EPA believes that the maximum stringency 0.10 g/BHP-hr standard is inappropriate at the present time. Its requirement for essentially 100 percent trap use greatly increases the risk that some engines might be unable to meet the standard by 1990. The 0.25 g/BHP-hr standard will allow a more orderly development and application of technology because some of the more intractable applications can be avoided. At the same time it meets the requirements of the statute and promises to maintain overall heavy-duty diesel particulate emissions at essentially current levels. As for the line-haul options, the 0.60 g/BHP-hr standard has little to recommend it. It requires no further control beyond 1987 for the affected engines, significantly increases overall fleet emissions, and is the least cost effective of the options considered here. The 0.40 g/BHP-hr line-haul standard, on the other hand, involves a trade of some emission benefit for enhanced overall cost effectiveness. For this reason, EPA currently favors inclusion of the 0.40 g/BHP-hr line-haul option in the Final Rule. However, before such an approach could be finalized, regulatory means of identifying urban and non-urban applications would have to be developed, and the unwanted competitive effects would have to be mitigated. The Agency thus solicits comment on this approach and its possible usefulness, and is specifically interested in suggestions as to how the workability of this concept might be improved.

While EPA does not believe that a standard of 0.10 g/BHP-hr should be proposed for all engines, that standard may be appropriate for urban bus engines. The possibility of implementing a 0.10 g/BHP-hr standard for urban buses was mentioned earlier as a means to insure maximum control of these engines. As a group, these engines have less diversity in both engine characteristics and in operating patterns than do heavy-duty diesels as a whole. EPA believes that, given the use of trap technology, these engines may be able to meet a 0.10 g/BHP-hr standard for little extra cost beyond a 0.25 g/BHP-hr standard, since the trap technology currently envisioned appears to provide the required efficiency to meet the lower standard. At this level the urban cost effectiveness appears very good, primarily because these buses accumulate all of their mileage in urban areas rather than having a portion of

emissions benefits discounted as rural. The cost effectiveness of the 0.10 g/BHP-hr standard for urban buses is estimated to be about $3,300 per ton.

Since EPA has not identified significant cost differences between these two standards, the 0.10 g/BHP-hr level appears preferable. At the same time, recognizing that such costs may be identified by public comment on the proposal, the Agency remains open to eventually setting a 0.25 g/BHP-hr standard for urban buses and is proposing both options for comment.

EPA believes strongly that trap technology is feasible and cost effective for most heavy-duty diesels for the 1990 model year, yet it also recognizes the possibility that its judgment could be changed by information developed during the public comment period. Therefore, it is also prudent to indicate what course EPA would choose for non-trap standards in that eventuality. EPA's plan at this time would be to implement the 0.40 g/BHP-hr level should a non-trap standard prove to be necessary.

In summary, EPA believes that some degree of immediate control should be implemented, and that a standard of 0.60 g/BHP-hr is feasible in the 1987 timeframe. Beyond that, substantial further reductions are called for and appear to be feasible for 1990. It is EPA's further judgment that trap technology can be successfully applied to most heavy-duty diesel engines in that timeframe, and that the added emission reductions possible with traps justify the increased costs of a 0.25 g/BHP-hr standard, and perhaps a 0.10 g/BHP-hr standard for urban buses. If the problems associated with implementing a 0.40 g/BHP-hr line-haul standard in conjunction with the 0.25 g/BHP-hr standard can be resolved, EPA also favors including this option in the Final Rule.

2. Heavy-duty Engine NO_x

EPA continues to believe, as originally indicated in the NO_x advance notice, that the statutory 75 percent reduction standard is not feasible for heavy-duty diesel engines. A NO_x standard will have to be developed either as a temporary revision, based on such things as cost and fuel economy impacts, or as a permanent change based upon lack of environmental need. From the earlier discussion of the environmental need for NO_x control, there may or may not be a need for controlling future motor vehicle NO_x emissions.

In developing NO_x control options, EPA has decided to use common standards which are appropriate for both gasoline-fueled and diesel heavy-duty engines. While it would be possible to have separate standards for gasoline-fueled and diesel engines, there would be little environmental benefit from doing so in this case. As was noted in the discussion of environmental need, NO_x emissions from heavy-duty gasoline engines are expected to decline in future years even without additional control. Therefore, so long as a reasonable degree of control is established for gasoline engines, they will not pose a significant concern relative to future NO_x emissions.

In a manner similar to the heavy-duty diesel particulate options, EPA has examined NO_x control options in two timeframes, near-term (1987) standards and longer-term (1990) standards. For NO_x there is an added leadtime dimension because of the statutory leadtime provisions of Section 202(a)(3)(B) of the Clean Air Act. The choice of 1987 does not satisfy the four year leadtime provision of that section, but EPA has explicitly considered the amount of available leadtime in developing 1987 options and, as indicated in the earlier discussion of statutory provisions, believes the now conflicting requirements of the Act necessitate such an approach. In addition, manufacturers have been aware since the January 1981 advance notice that EPA planned to require substantial NO_x emission reductions. This fact has in essence given them three additional years to begin to prepare for new NO_x standards. While this fact does not in any way excuse EPA from the need to allow adequate leadtime for a new standard after its promulgation, it has allowed progress to be made in heavy-duty engine NO_x control and reduced the required leadtime for an early standard.

For 1987:

No new standard. Under this option, the 1986 NO_x standard would remain unchanged. This approach would have to be implemented under Section 202(a)(3)(E) after the Administrator has studied the impact of motor vehicle NO_x emissions on public health and welfare. However, current engines are actually operating below the level of the standard (generally in the 4 to 8 g/BHP-hr range), so that future emission levels could increase even more than projected if manufacturers were to take advantage of potential increases in trade for improved fuel economy or easier compliance with particulate emission standards.

6.0 g/BHP-hr. EPA's evaluation of current emission levels and the potential for near-term reductions from heavy-duty diesel engines indicates that a standard of 6.0 g/BHP-hr is feasible for 1987. This standard represents a modest decrease from current engine emissions (about 15 percent below current levels) which should be attainable in the short term with techniques compatible with the proposed 0.60 g/BHP-hr particulate standard. Techniques expected to be used include improvements to fuel injection systems, injection timing retard, increased use of turbocharging and aftercooling, minor engine modifications and improvements to engine efficiencies.

This option is considerably less stringent than the 4.0 g/BHP-hr level envisioned in the advance notice, in spite of the time which has elapsed since then, and in spite of the fact that manufacturers face a standard for their California models of 5.1 g/BHP-hr NO_x on the EPA transient test (or 4.5 g/BHP-hr HC plus NO_x on the 13-mode steady state test) for 1984. However, a Federal standard below 6.0 g/BHP-hr would not be feasible for 1987, principally because of leadtime constraints. The 6.0 g/BHP-hr level itself will present a challenging task in that timeframe. Standards would need to be delayed several years (see the discussion of 1990 standards below) to move significantly below that level.

Gasoline-fueled heavy-duty engines will be able to readily meet a 6.0 g/BHP-hr standard in 1987. About one third of current engines are already capable of meeting such a standard, and those remaining have well established techniques at hand for compliance. Recalibrations of air/fuel ratios, enhanced exhaust gas recirculation (which will already be in use on most heavy-duty gasoline engines), and ignition timing retard will be able to satisfy a 6.0 g/BHP-hr standard with no significant impacts on performance or fuel economy.

EPA views the 6.0 g/BHP-hr 1987 option as essentially a stop-gap measure to obtain a feasible level of control in the short term. The Agency's main concern is directed at the longer-term 1990 standard. Although the proposal as structured provides a three-year period for the interim standard, the Agency does not view it as essential to maintain such a period should it, for example, turn out that the 1987 proposed level has to be delayed. In such an event, the Agency might choose to abandon the interim standard or to implement it for a one or two year period, depending on the situation. Any decision to change or delay the 1990 standard will be an independent judgment based only on facts pertinent to the feasibility of that standard for that year. (A decision about 1990 would, of course, consider as relevant such facts as the impact of a

delayed interim standard on the availability of manufacturers' resources for meeting a long-term standard.) Commenters on the proposal should treat the near-term and long-term standards as separate and distinct issues, and not assume that a delay in the 1987 standard would mean an automatic delay in the 1990 standard.

For 1990:

No control beyond 6.0 g/BHP-hr. If no additional control is adopted for 1990, then heavy-duty engine NO_x emissions will continue to increase much as projected under current standards. A 6.0 g/BHP-hr standard would result in heavy-duty engine NO_x emissions in 1990 being over 50 percent greater than in 1980. Such a standard also would fail to meet the statutory requirement for a temporarily revised standard (based on technological, cost, or fuel economy considerations). The Administrator would have to issue the standard under section 202(a)(3)(E) after studing the effects of motor vehicle NO_x emissions on the public health and welfare.

4.0 g/BHP-hr. In order to deal successfully with the problem of future growth in NO_x emissions, a substantial reduction beyond the 6.0 g/BHP-hr level is necessary. EPA believes that further reductions are available, and that projected improvements in technology argue for lower future standards. Unfortunately, heavy-duty diesel engines, which form the bulk of the problem which must be addressed, are limited in their capability for reductions in NO_x. Based upon current knowledge of diesel NO_x control technology, EPA believes that a 4.0 g/BHP-hr standard represents the approximate limit of available control without unacceptable impacts on fuel economy, engine durability or engine-out particulate levels. Primary sources of NO_x control lie in the areas of electronically programmed exhaust gas recirculation, electronic management of fuel injection, charge air cooling, and engine modifications to improve efficiency and enhance combustion. These will be implemented in concert with changes needed for particulate control. As noted in the discussion of the 0.40 g/BHP-hr particulate option, much of this technology is already targeted for introduction on heavy-duty diesel engines in the late 1980s for reasons apart from emissions control (fuel economy improvements). The full cost, therefore, should not be attributed to emissions control requirements. There is also uncertainty as to the final complement of technologies which will be used to meet a 4.0 g/BHP-hr standard, introducing further variability into actual costs. Discounted lifetime cost would be about $300 to $1,000 per vehicle, depending on fuel economy effect. Total discounted NO_x emissions in 1995 would only be about 7 percent greater than 1980 levels under this option.

In establishing the 4.0 g/BHP-hr option, full consideration has been given to the interactions which will occur between NO_x and particulate standards for heavy-duty diesel engines. The most difficult combination of standards would pair the 4.0 g/BHP-hr NO_x standard with the 0.40 g/BHP-hr non-trap particulate standard. With this combination, great care would have to be exercised in balancing tradeoffs between NO_x and particulate emissions to bring engine-out levels of both pollutants below the standards. The difficulty of the 4.0 g/BHP-hr NO_x standard would be eased somewhat when paired with the trap-based 0.25 g/BHP-hr particulate standard. The use of traps for particulate control will allow some increase of engine-out particulate in favor of lower NO_x levels. In any event, EPA recognizes that the combination of a 4.0 g/BHP-hr NO_x standard with either a 0.40 g/BHP-hr or a 0.25 g/BHP-hr particulate standard will represent a very difficult challenge for conventional diesel engine technology.

Heavy-duty gasoline engines will also be able to meet a 4.0 g/BHP-hr option for 1990. Enhanced use of exhaust gas recirculation will be the primary means of compliance, along with engine modifications to improve tolerance for exhaust gas recirculation without adverse fuel economy or performance effects. These modifications might include improvements to combustion chamber efficiency, fast burn combustion techniques, some use of electronic controls, and general engine efficiency improvements. Similar non-catalytic reductions of NO_x have been attained for light-duty vehicles, and considering the amount of leadtime remaining before 1990, EPA believes that the necessary improvements will be attainable for gasoline-fueled heavy-duty engines.

The cost-effectiveness of the 40 g/BHP-hr option is very good, under $400 per ton, for both gasoline-fueled and diesel engines. Cost effectiveness turns out not to have been a significant discriminator for any of the NO_x control options, for either heavy-duty engines or light-duty trucks, because it has been relatively low for all of the options considered. Therefore, cost effectiveness will not be discussed further in the context of NO_x control options.

In summary, the 4.0 g/BHP-hr standard in 1990 combined with a 60 g/BHP-hr standard in 1987 represents what EPA believes to be the proper level of control for heavy-duty engine NO_x emissions, given the technological limitations of current diesel engines.

3. Impact of future Engine and Fuel Development on Heavy-Duty Diesel Engine NO_x and Particulate Emissions

Two developments in heavy-duty diesel engine technology in the early 1990s could have a dramatic effect on the NO_x and particulate levels of those engines. While not required by the standards being proposed today, these technologies appear to have great promise for emission control and could be the primary means of compliance with more stringent standards in the years beyond 1990. Therefore, they deserve mention here.

The first technology is that of ceramics (*i.e.*, the partial or complete insulation of the combustion chamber to reduce the percentage of heat lost to the engine cooling system). Early results of U.S. Army-sponsored research at Cummins Engine Company indicate that particulate emissions, based on smoke measurements, may be reduced on the order of 90 percent by the higher temperatures associated with ceramic technology. Brake-specific NO_x emissions, while expected to increase, actually decreased by a small amount. Thus, as ceramic technology is introduced in the 1990s for fuel efficiency, it may concurrently allow compliance with the 1990 particulate standards without the use of traps.

The second technology is the use of methanol to fuel heavy-duty diesel engines. Early results from an advanced two-stroke heavy-duty diesel engine running on methanol indicate NO_x and particulate emissions well below those required by the 1990 standards. These reductions were not unexpected, since methanol's lower heat of combustion causes lower flame temperatures (reducing NO_x), and the absence of chained carbon atoms and the presence of oxygen in the fuel should work to inhibit particulate formation. The commercialization of such engines primarily awaits the availability of methanol at competitive prices; methanol-fueled heavy-duty diesel engines are already being field-tested in transit buses in California. While the widespread availability of methanol depends on future oil prices, which cannot be accurately predicted, commercial availability could occur in the early 1990s. For transit buses, this could occur much sooner, due to their

centralized fueling system and subsidization by the Federal government.

4. Light-duty Truck NO_x

Light-duty trucks present a different picture than heavy-duty engines in terms of standards development. The technology for NO_x control applicable to light-duty trucks has already been developed for passenger cars and will be easily adaptable to light-duty trucks. In fact, all the techniques which EPA expects to be used to meet new NO_x standards are already being used on at least a portion of the light-duty truck fleet. In this situation, there is no need to look at short-term versus long-term standards. Accordingly, all of the options which EPA has considered are viewed here as options for 1987. The options are as follows:

2.3 g/mi. This level represents a continuation of current standards and would require a finding that additional requirements for LDTs are environmentally unnecessary. Continued control at this level would result in two percent greater NO_x emissions in urban areas than the proposed 1.2/1.7 g/mi standards; however, with the standards now in plalce for cars and those being established in this rulemaking for heavy-duty engines, tighter standards for light-duty trucks may not be needed in the early 1990s to maintain NO_2 attainment. Moreover, control strategies involving other sources may be available at lower cost to maintain attainment. Our data indicate that total urban NO_x emissions will increase in the 1990s and such increases could effect attainment. If this is true, adoption of this option could require a further tightening of the standard sometime in the future. In addition, there may or may not be environmental benefits associated with NO_x reductions beyond issues of NO_2 attainment. Comments are solicited on whether or not attainment can be achieved without further control of light-duty trucks and whether deferring tighter standards would meet the requirements of the statute for heavier light-duty trucks.

EPA also specifically solicits comments on what findings must be made under section 202(a)(3)(E)(ii) to support a changed standard. That subsection refers to the pollutant specific study required under section 202(a)(3)(E)(i), and such other information as is available to the Administrator but does not specify the criteria which must be used as the basis for changing the standard to a level different from that set out in section 202(a)(3)(A)(ii). The study must concern "the effects of [the pollutant] on pulic health and welfare." This language tracks the criteria language in section 108, the basis for establishment of ambient air quality standards under section 109. While this suggests that attainment of the ambient air quality standards is a major consideration in making the requisite determination, it is by no means clear that Congress intended a specific test under section 202(a)(3)(E)(ii). Therefore, we seek comments on what criteria are relevant to a determination that a standard can be changed under this section, i.e., what considerations must be addressed in the pollutant specific study or other available information if EPA were to promulgate such a changed standard. For example, we request comments on the extent to which EPA should consider such factors as attainment with health-based ambient standards, environmental factors outside ambient air quality standards, costs, cost-effectiveness, etc.

1.2 g/mi. Earlier discussion of the advance notice for NO_x standards alluded to the fact that a 1.2 g/mi light-duty truck standard had been derived by EPA as equivalent in stringency to the 1.0 g/mi light-duty vehicle NO_x standard. EPA still believes this to be the case. Light-duty truck NO_x emissions under this option would be controlled to the point where their overall level in 1995 would actually be somewhat below that in 1980, by an estimated 5 percent.

Gasoline-fueled light-duty trucks would meet a 1.2 g/mi standard principally through the application of three-way catalyst systems, although a few of the smallest engines may choose increased exhaust gas recirculation rates or retarded ignition timing rather than the expense of a three-way catalyst. Compliance would be relatively straightforward, with about 40 percent of the fleet already equipped with three-way systems. Diesel powered light-duty trucks would be expected to use some combination of exhaust gas recirculation and injection timing retard to lower NO_x emissions. The only area of difficulty which arises in meeting this option concerns the largest light-duty diesel trucks, such as the Geneal Motors 6.2 liter engine. It is possible that this engine would experience substantial performance and fuel economy penalties in meeting a 1.2 g/mi NO_x standard along with the 1987 light-duty diesel particulate standard.

1.2 g/mi for light-duty trucks up to 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, 1.7 g/mi above. One impact of a tigher NO_x standard for diesel light-duty trucks is an increase in engine-out particulate levels. This, in turn, means that compliance with the 0.26 g/mi particulate standard will be more difficult and require a greater reliance on trap oxidizers. Because both the highest NO_x emissions and highest particulate emissions are associated with the heavier light-duty trucks, EPA has evaluated the potential savings associated with maintaining a less stringent NO_x standard for those vehicles. Such an approach would also ease the difficulty noted above which the largest diesel light-duty truck engines might have with meeting a 1.2 g/mi NO_x standard.

The cutpoint which EPA has chosen for subdividing the light-duty truck class is 6,000 lbs gross vehicle weight, or 3,999 lbs equivalent test weight. These values define two fairly distinct categories of light-duty trucks, and are parameters in fairly common use. The 6,000 lbs gross vehicle weight criterion is the same as that used in the Clean Air Act to separate heavy-duty engines from light-duty trucks, while the equivalent test weight distinction is used in California standards for light-duty trucks. Use of a test weight distinction in addition to gross vehicle weight is intended to discourage artificial "migration" of vehicles from the lighter group to the heavier group, with its attendant, less stringent standard.

In a fashion analogous to that which led to the definition of 1.2 g/mi for light-duty trucks as corresponding to 1.0 g/mi for light-duty vehicles, EPA has identified 1.7 g/mi as corresponding to a 1.5 g/mi light-duty vehicle standard. Use of a 1.7 g/mi standard for the heavier light-duty diesel trucks will have the same effect as the current 1.5 g/mi light-duty vehicle NO_x waiver has for diesel passenger cars. The percentage of light-duty diesel trucks requiring traps to meet the 0.26 g/mi particulate standard will drop, from about 50 to 60 percent to about 20 to 30 percent, while the urban particulate cost effectiveness will improve by a factor of two to three. In exchange for this, 1995 light-duty truck NO_x emissions will increase slightly (about 6 percent), but still will not exceed 1980 levels.

While the principal motivation for this option concerns diese light-duty trucks, EPA has chosen to define the option as applicable to both gasoline-fueled and diese light-duty trucks. The overall impact of a 1.7 g/mi standard for all light-duty trucks above 6,000 lbs gross vehicle weight and 3,999 lbs equivalent test weight on NO_x emissions is small, and differs only slightly from the case where only diesels are covered. It has

the benefits of regulatory simplicity and equity of standards between the two engine types.

As a variation on this option, EPA has also considered proposing a 1.2 g/mi standard for all light-duty trucks except for the heavier diesels. Those vehicles would continue to meet a 2.3 g/mi standard as at present. As already noted with regard to retaining the 2.3 g/mi standard for all light-duty trucks, comments are solicited on whether or not continuing the current standard for heavier light-duty trucks is allowable under the statute. Also, comments are solicited on wheher this option equitably treats both the heavier gasoline and diesel light-duty trucks.

II. Summary of the NPRM

As is clear from the preceding discussion, the proposed NO_x standards for light-duty trucks and heavy-duty engines and the proposed particulate standards for heavy-duty diesel engines are the major provisions of today's notice. These are summarized briefly below, followed by discussions of the other provisions of the proposal.

A. Low-Altitude NO_x and Particulate Standards

This section summarizes the low-altitude NO_x and particulate standards proposed today for light-duty trucks and heavy-duty engines. The rationale behind the levels of the standards and effective model years was developed in the preceding section.

Revised NO_x standards are proposed for 1987 and later model year light-duty trucks. For light-duty trucks up to and including either 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, the proposed standard is 1.2 g/mi. For light-duty trucks over 6,000 lbs gross vehicle weight and 4,000 lbs equivalent test weight, the proposed standard is 1.7 g/mi.

Revised NO_x standards are also proposed for all heavy-duty engines, both gasoline-fueled and diesel. The proposed standards are 6.0 g/BHP-hr for the 1987–89 model years, and 4.0 g/BHP-hr for 1990 and later model years.

Particulate standards are proposed for heavy-duty diesel engines. The proposed standard for model years 1987–89 is 0.60 g/BHP-hr, and the proposed standard for 1990 and later model years is 0.25 g/BHP-hr. For urban buses, alternative particulate standards of 0.10 and 0.25 g/BHP-hr are proposed for 1990 and later model years.

B. Other Provisions of the Proposal

1. Allowable Maintenance Provisions

Allowable maintenance regulations deal with the maintenance done on vehicles, engines or sub-systems during testing programs to establish compliance with emission standards, and with maintenance instructions provided to vehicle owners. Today's notice proposes certain revisions to the regulations governing allowable maintenance for light-duty vehicles, light-duty trucks and heavy-duty engines, beginning with the 1987 model year.

There are several distinct aspects to the proposal. The first of these involves the extension of provisions already implemented for 1984 and later model year light-duty trucks and heavy-duty engines to cover light-duty vehicles as well. These provisions distinguish between allowable maintenance for emission-related and non-emission-related components. No limits are placed on the maintenance performed on non-emission-related components, beyond the requirement that maintenance schedules be the same as are recommended to the ultimate purchaser. For emission-related components (those components substantially affecting exhaust emission levels or likely to affect the deterioration of emissions), minimum technologically necessary maintenance intervals are specified in the regulations. The maintenance intervals for light-duty vehicles would be the same as those already established for light-duty trucks. These intervals represent requirements which are very close to current practice for the majority of manufacturers, and their feasibility is based upon the close similarity between light-duty vehicles and light-duty trucks in terms of technology and usage patterns.

While compliance with the new maintenance intervals would be relatively straightforward, EPA believes that it is important to extend this approach to allowable maintenance so that it covers light-duty vehicles. The overall purpose is to encourage the design of more durable emissions control systems which need less maintenance to be able to perform properly. The need for such improvements for light-duty vehicles is basically the same as that which led to the adoption of the allowable maintenance regulations for light-duty trucks and heavy-duty engines. In addition, this change would establish consistent provisions for all vehicle categories. Interested readers are referred to the light-duty truck rulemaking (45 FR 63734, September 25, 1980) and the heavy-duty engine rulemaking (45 FR 4136, January 21, 1980) for further information, including the development of the technologically necessary maintenance intervals.

EPA is proposing the addition of electronic engine controls and related actuators and sensors (including oxygen sensors, if used) to the list of emission-related components for light-duty vehicles, light-duty trucks, and heavy-duty engines. (Oxygen sensor maintenance is already regulated for light-duty trucks, with an interval of 50,000 miles.) The proposed minimum maintenance interval for these components is 100,000 miles.

EPA is also proposing that turbochargers and carburetors be added to the list of emission-related components for all gasoline-fueled vehicles and engines. The proposed interval in both cases is 100,000 miles. Although maintenance intervals for diesel engine turbochargers have been specified in the regulations for some time, EPA has not previously seen the need for similar provisions for gasoline-fueled engines, since so few of those engines were equipped with turbochargers. With the recent and projected future increases in turbocharger use by gasoline-fueled engines, EPA believes that regulations like those applicable to diesel engine turbochargers are now warranted. The addition of carburetors to the list of emission-related components follows logically from the extension of the useful life period for light-duty trucks and heavy-duty engines. EPA believes that manufacturers may perceive a need for recommending carburetor maintenance during the full-life useful life that did not arise under the previous half-life useful life.

The second part of the allowable maintenance proposal consists of several changes which will apply to all vehicle categories. The first of these is the concept of "critical" emission-related components.

As a sub-category of emission-related components, critical emission-related components are proposed to be defined as those components which either are designed exclusively for emission control purposes, or whose failure may result in a significant increase in emissions accompanied by no significant impairment (or perhaps even an improvement) in performance, driveability, and/or fuel economy. EPA is proposing that, in the case of critical emission-related components requiring maintenance during the useful life of the vehicle or engine, the manufacturer accept the burden of showing that the

maintenance is likely to be performed by the owners. Otherwise, the installation of the control system could be a mere formality, exercised to receive a certificate of conformity, but then failing to accomplish the intended emission reduction in actual on-the-road vehicles. This requirement, like the other revisions and additions to the maintenance regulations which EPA is proposing, will help to insure the attention of manufacturers to the design and production of vehicles and engines which continue to be in compliance with applicable emission standards in actual use.

Maintenance on the following components is proposed to be defined as critical emission-related maintenance: the catalytic converter, the trap-oxidizer and related components, all components of the air injection system, the electronic engine control unit and its associated sensors (including the oxygen sensor, if installed) and actuators, the exhaust gas recirculation system and its associated sensors, the positive crankcase ventilation valve, and the evaporative emission system (excluding the crankcase air filter) and its associated sensors. The proposed list of critical emission-related components consists of relatively few items, thus minimizing the burden on the manufacturers.

It is worth noting that for light-duty vehicles, none of the components currently identified as critical have allowable maintenance intervals falling within the 50,000 mile useful life period established for those vehicles. Therefore no showings of reasonable likelihood, as are discussed below, would be required for these vehicles. The allowable maintenance intervals proposed for light-duty trucks and gasoline-fueled heavy-duty engines, with the exception of those for exhaust gas recirculation systems and positive crankcase ventilation valves, fall very close to the end of these vehicles' useful life period. EPA expects that, as a practical matter, most manufacturers would simply extend the intervals by the slight additional mileage necessary to eliminate the requirement for critical emission-related maintenance during the useful life period. For heavy-duty diesel engines, only particulate traps, exhaust gas recirculation systems, and electronic engine controls would be affected.

For those components specified as critical and requiring maintenance during the useful life period, manufacturers would be required to demonstrate the likelihood that recommended maintenance will actually be performed in-use. The proposed regulations would allow manufacturers to demonstrate this likehood in five specific ways.

First, if data presented to EPA establish that as emissions increase due to lack of maintenance, vehicle performance will quickly deteriorate to a point unacceptable for typical driving that would be considered adequate assurance that the maintenance would be performed in-use. Second, for those critical emission-related components which have been in service for sufficient time to to have accumulated in-use experience, survey results showing that proper maintenance is currently being performed by at least 80 percent of vehicle/engine owners would fulfill the reasonable likelihood requirement. Third, visible signals could be installed to stimulate maintenance. This provision is similar to, but is intended to be more effective than, the requirement that has been in effect for some time for exhaust gas recirculation systems in light-duty applications. As described below, two warning lights would be involved, which could not be easily reset without performing the requiring maintenance.

The fourth of demonstrating the reasonable likelihood of maintenance would apply to those critical maintenance items for which there is no prior in-use experience. In such cases, the manufacturer could choose to market up to 200 randomly selected vehicles or engines without the signals described above and monitor the performance of the critical maintenace item by the owners. If such monitoring showed that the maintenance is performed by at least 80 percent of owners, the reasonable likelihood requirement would be considered satisfied. This option would be restricted to two consecutive model years, and could not be repeated until any previous surveys under this option are completed. If more than one engine family were involved, the random sample would be sales-weighted so as to be representative of all families in question.

The last specified method for a manufacturer to meet the reasonable likelihood requirement would be for the manufacturer to provide the critical emission-related maintenance at no cost to the owner. If it were clearly stated in the maintenance schedule provided to the purchaser that required maintenance on a given critical emission-related component will be performed without cost to the owner, then EPA believes that such maintenance would be performed by enough owners to satisfy the reasonable likelihood requirement.

Finally, other methods of establishing the reasonable likelihood of critical maintenance items being performed in-use could be used by the manufacturer, if approved in advance by the Administrator. Further details regarding all of these options may be found in the draft regulations appearing at the end of today's notice.

EPA is also taking this opportunity to deal with three other allowable maintenance issues. First, based upon limited survey data obtained by the Agency and available in the docket, it appears that, at least for light-duty vehicles, the currently employed system of warning lights to signal the need for maintenance is not effective. Since in some cases the light may not remain on long after startup, most owners appear to ignore the signal and fail to have the required maintenance performed. The Agency wants to improve this situation, and is proposing that warning lights remain permanently on until the maintenance is completed, and not be easily defeatable. Other measures are also being proposed, such as the content of the message to be displayed by the warning signal and a second lighted message. This second lighted message would come on after a prescribed mileage (1,000 miles) has elapsed since the first lighted signal went on, if the maintenance has not been performed. The Agency desires comment on this issue and ways to improve the effectiveness of maintenance indicator systems.

It should also be noted that resetting these maintenance indicator lights without actually performing the required maintenance would be considered by EPA to be tampering. EPA considers these lights to be an integral element of vehicle design, and resetting them without performing the required maintenance would be considered tampering under the provisions of section 203(a)(3) of the Act.

The second additional issue involves some needed clarification of the relationship between maintenance performed or specified on vehicles or engines used for durability testing and maintenance recommended to purchasers in their owner's manual. The durability testing program and related evaluation of emissions deterioration rates are intended to simulate driving and use patterns typical of in-use vehicles. Maintenance performed or specified on durability systems is also intended to correspond to that which will be recommended to the ultimate purchaser. In the current wording of the regulations for allowable maintenance and for preparation of maintenance instructions, this relationship has sometimes been misunderstood.

Therefore, EPA proposes revision of the wording to make it clear that under normal driving conditions, no maintenance can be recommended to owners beyond that performed or specified for durability testing. The definitions of "emission-related maintenance" and "non-emission-related maintenance" are also proposed to be modified to make this relationship clear. Supplemental maintenance would be permitted only under adverse conditions.

Lastly, today's proposal clarifies the distinction between maintenance and inspections. An inspection does not constitute maintenance, and inspections to detect components requiring service or replacement are not items of scheduled maintenance. However, inspection instructions may lead to the discovery of failed emission control components. Hence EPA does not wish to discourage their inclusion in instructions to owners, provided that they are not represented to be prerequisite to an owner's claim for warranty and recall repairs. Therefore, the proposed regulations allow the inclusion in the maintenance instructions of recommended inspections, provided that the instructions clearly state that the owner need not perform the inspections in order to take advantage of any emission warranty or recall.

2. Averaging of Heavy-Duty Diesel Engine Particulate Emissions

Background. Today's notice proposes that an averaging program be established for determining compliance with the proposed particulate emission standards for heavy-duty diesel engines. This program is proposed to take effect beginning with the 1990 model year, coincident with the proposed lowering of the applicable particulate emission standards to 0.25 g/BHP-hr at low-altitude and 0.30 g/BHP-hr at high-altitude. The averaging program would not apply to engines used in urban buses, which would be required to individually meet the applicable 1990 standards. The reason for this exclusion, as has been discussed earlier, is to insure the maximum degree of control for these predominantly urban engines and prevent the possibility that traps would be left off of urban buses through the use of averaging.

This program is, in all substantive aspects, patterned after the particulate averaging program for light-duty diesels. That program was implemented by a final rule published July 21, 1983 (48 FR 33456). Before describing the program, it is appropriate to briefly recount the rationale underlying mobile source emissions averaging. More information may be found in the light-duty diesel averaging final rule.

An emissions averaging program increases the affected manufacturer's flexibility in complying with emission standards. This increase in flexibility can be accomplished without appreciable loss of environmental benefits. Averaging would allow manufacturers to optimize the trade-offs and costs involved in reducing particulate emissions on an engine family-specific basis. Manufacturers would be able to tailor emission control systems and combinations of systems, to those best suited for each application. The most expensive particulate control strategies (trap-oxidizers) could be applied to those engine families where the benefits are the greatest and/or the risks of failure are the lowest. The ability to assign different emission limits to different engine families would also mean that the chance of any engine family being forced out of production due to technological or cost problems is significantly reduced.

Under averaging, the differences in the efficiency and cost of different control systems could be further utilized to reduce costs by removing the traps from some engine families, in favor of upgrading the equipment on other engine families to offset the resulting increase in emissions. Although the more efficient hardware is more costly, this should be more than outweighed by the savings on the total number of systems required. Emissions from some engine families could increase while those from other families decrease; on average, they would still be meeting the same standard, and the margins to account for such factors as in-use deterioration and selective enforcement audits would be the same. In other words, averaging could change the technology mix used to meet the proposed standards without appreciably affecting the level of overall emissions, which would be the same as that without any averaging program.

One issue raised during the development of the light-duty particulate averaging program that deserves mention in this context is the impact of averaging on equity between manufacturers. While no averaging program can be designed to be entirely without competitive impact (*i.e.*, the benefits to a large manufacturer with a diverse product line will generally exceed those to a small manufacturer marketing only one, or a few, engine families), EPA believes that the averaging program proposed here would largely avoid such problems. EPA also believes that the benefits of this program, in terms of reduced overall costs of compliance, would more than compensate for whatever inequities may result. However, EPA is still open to comment in this area. EPA specifically solicits comment as to the expected competitive effects of the averaging program, and on ways to further reduce such effects without compromising the baisc integrity of this approach to more cost-effective particulate control.

Description of the program. The program is most clearly presented in terms of the two aspects of compliance which would exist: Compliance by engine families with their individual particulate emission limits, and compliance by the manufacturer with the applicable particulate emission standards.

Compliance with family particulate emission limits. Manufacturers would determine particulate emission limits for each heavy-duty diesel engine family to be produced in a given model year. These limits would be set to one one-hundredth (0.01) of a gram precision, and would have the same relationship to an engine family as emission standards currently have to all engine families taken as a whole. The criteria used to distinguish engine families as unique would remain unchanged.

EPA believes that it is appropriate to limit, in some way, the maximum level of particulate emissions from any specific engine family. Thus, EPA proposes requiring all of the family particulate emission limits to be set at levels not greater than a ceiling, above which no engine family could be certified. The proposed ceilings are 0.60 g/BHP-hr for low altitude and 0.72 g/BHP-hr for high altitude. With the ceilings set at the particulate standards in effect for the 1987 through 1989 model years (when averaging is not yet in effect), all engine families would already be in compliance with the ceiling levels, and no heavy-duty diesel engine family should have any difficulty obtaining certification. These ceilings are high enough, relative to the applicable particulate standards, that EPA sees little or no impact on the flexibility available to the manufacturers.

As in the light-duty particulate averaging program, it would be the family emission limit determined by the manufacturer that would be enforced by EPA. These limits are what would be averaged in determining compliance with the applicable standards, as explained below; certification or other test data would not be used in the averaging calculations.

Also as in the light-duty case, manufacturers would be required to

label each engine, either on a new label or by an addition to an existing label, with the applicable emission limit for that engine family at the time that the engine was produced. In this way, EPA would be able to ensure that every individual engine can be associated with its proper emission limit throughout its life, even if the manufacturer were to change the emission limit applicable to that family part way through the model year (as discussed below).

Compliance with the 1990 model year particulate standards. As in the light-duty particulate averaging program, compliance with the applicable standard would be determined by calculating a production-weighted average emission level. This was a straightforward process for light-duty diesels, and was only slightly complicated by the averaging together of light-duty diesel vehicles and trucks permitted at the manufacturer's discretion.

The problem of determining compliance for heavy-duty diesel engines, however, would be complicated by other factors. These are the varying useful life periods to which different subcategories of heavy-duty diesel engines are certified, and the difference stemming from the use of g/BHP-hr as the units for heavy-duty emission standards, as opposed to the g/mi units applicable in the light-duty case.

In order to deal with the varying useful life periods for heavy-duty diesel engines, EPA is proposing that the averaging of particulate emissions be restricted to within each of the three useful life subclasses established in the November 16, 1983 final rule (48 FR 52170). Each of the subclasses (light, medium, and heavy) would be required to comply with the particulate emission standards, but only emissions from those engine families in the same subclass could be averaged together. Alternatively, EPA might allow averaging across subclasses factoring useful-life values into the averaging calculations, so that total fleet emissions remain constant. However, if a non-trap standard (0.40 g/BHP-hr) is set for line haul trucks to reflect their proportionally smaller contribution to urban emissions, then the Agency would not allow averaging between these engines and other heavy-duty diesels.

Emission standards for heavy-duty engines are expressed in terms of mass of pollutant emitted per unit of work performed, rather than per unit of distance travelled, since heavy-duty engine applications are based on work to be performed. This avoids penalizing engines which perform more useful work while travelling the same distance. Since different heavy-duty engines in compliance with the same emission standard can have markedly different lifetime emissions, due to the variations in work performed, normalization of average emissions to account for this is required to maintain air quality benefits equivalent to those that would occur without averaging.

EPA has developed a method by which a manufacturer's production-weighted average particulate emission level could be normalized to account for engine power. The purpose of this method is to weigh the particulate contribution from each engine family not only by production volume, but also by the useful work that the engines perform (the rated power). The proposed weighting procedure is given in the following equation:

$$\text{Weighted particulate level} = \frac{\sum_{i=1}^{n} \text{PROD}_i \times \text{HP}_i \times \text{FEL}_i}{\sum_{i=1}^{n} \text{PROD}_i \times \text{HP}_i}$$

Where:

i = subscript, denoting individual engine families,

PROD_i = model year production of family i (units),

HP_i = production-weighted rated power of family i (horsepower), and

FEL_i = family i particulate emission limit (g/BHP-hr).

The production-weighted rated power for each family would be defined as the production-weighted average of the rated power of all of the configurations included within the family. The particulate emission limit for each family would be determined by the manufacturer, would be specified to 0.01 g/BHP-hr precision, and would be required to be less than or equal to 0.60 g/BHP-hr at low altitude or 0.72 g/BHP-hr at high altitude, as described above. In order to demonstrate compliance, the weighted particulate emission level would be required to be at or below the applicable standard (0.25 g/BHP-hr at low altitude, 0.30 g/BHP-hr at high altitude).

Under the averaging program, each manufacturer would be given complete flexibility in deciding whether to apply averaging to its production of heavy-duty diesel engines. For those manufacturers electing to use averaging, EPA would grant a certificate of conformity to each family that demonstrates compliance with its particulate emission limit. It would be a condition of the certificate that the manufacturer's weighted particulate emission level meet the applicable particulate emission standard (low or high altitude) at the end of the model year. The certificate(s) of conformity would be rendered void *ab initio* at the conclusion of the model year for those engines causing any excedance of the applicable particulate standard. For more detail regarding conditional certification and EPA's intent in handling remedies and/or penalties in the event that the terms of such conditions were violated, see the light-duty particulate averaging final rule (July 21, 1983, 48 FR *at* 33459).

During production, a manufacturer would have full responsibility for taking whatever action may be necessary to ensure that its heavy-duty diesel engine fleet meets the applicable standard at the conclusion of model year production. As discussed below, this might involve recertifying some families to new emission limits, or adjusting production volume in response to observed sales. In any event, it would only be after model year production has been completed that EPA would enter the process in order to verify that the family limits, when weighted by production and rated power as explained above, comply with the applicable particulate standard.

There are a number of ways in which a manufacturer could manipulate its heavy-duty diesel engine fleet during the model year to assure compliance with the particulate standard. The possibility will exist, as it does currently, for a manufacturer to alter the engine operating characteristics or hardware in such a way as to create a new engine family. Under the proposed averaging program, this would allow the establishment of a revised family particulate emission limit. EPA would also extend to heavy-duty diesels the flexibility of allowing the creation of new family particulate emission limits without making any changes to the engine. This option could prove to be useful to a manufacturer which finds that the production emission levels of an engine family were sufficiently below the originally determined family emission limit that the limit could be lowered without physically altering the engine. In changing a family particulate emission limit, however, the manufacturer could not establish a revised limit lower than that which

could be demonstrated by the certification data. Any time that a family limit were changed, EPA would issue a new certificate applicable to subsequent production of engines in that family, and each engine produced thereafter would need a revised label recording this new family emission limit.

Restrictions on averaging. As proposed today, the averaging program for heavy-duty diesel particulate emissions contains two significant restrictions: regional subdivisions and the exclusion of urban buses. For the purposes of this program, there are three defined regions: California, 49-state low altitude, and 49-state high-altitude. Averaging could be chosen by the manufacturer and applied in accordance with the provisions just described for one or all of these regions (to the extent not precluded by California's own regulations). However, heavy-duty diesel engine families designated for sale and use in one of these regions could not be averaged together with families intended for sale and use in another region.

The rationale for this decision, which is discussed in detail in the light-duty diesel averaging final rule, derives from the fact that the impact on ambient air quality in a given area is essentially the result of the average emissions of the vehicles and engines in that area. High-altitude areas and California have different emission control requirements from those of the rest of the country. Since certain "trade-offs" of emissions might occur under a broad national averaging program, it is necessary to exclude vehicles and engines marketed in California or in high-altitude areas from the nationwide averaging program. In order to minimize the impact of this restriction, however, EPA would allow averaging within any one of these areas (to the extent not precluded by California's own regulations), as noted above.

For similar reasons, EPA is proposing to exclude from the averaging program those heavy-duty diesel engines used in urban buses. As already noted, particulate emissions from these buses play a key role in central city ambient air quality and, in addition, are highly visible to the public. These emissions must, therefore, be controlled as stringently as possible. However, if urban buses were included in the averaging program, manufacturers might be able to avoid applying trap-oxidizer technology to those vehicles. Under these circumstances, EPA believes it appropriate to exclude urban buses from the averaging program.

EPA recognizes that these restrictions on averaging would reduce the flexibility available to the manufacturers somewhat, compared to a nationwide averaging program where all vehicles and engines could be averaged together. However, such restrictions would impose no new burdens compared to the present non-averaging program. The mechanisms to determine the emission characteristics and location of final delivery of any given vehicle or engine already exist due to the labeling and recall provisions, and separate resources must already be devoted to the development and certification of vehicles and engines to satisfy the distinct California and high-altitude standards. Therefore EPA believes that the regional restrictions and exclusion of urban buses would not substantially affect the overall utility of the proposed averaging program.

3. High-Altitude Heavy-Duty Diesel Engine Particulate Standards

The proposed high-altitude particulate standards for heavy-duty diesel engines are 0.72 g/BHP-hr for model year 1987 and 0.30 g/BHP-hr (0.12 g/BHP-hr for urban buses) for model year 1990. These standards are proportional to the corresponding low-altitude standards. The method of determining levels for the high-altitude standards is to apply the ratio of uncontrolled low- to high-altitude emissions to the low-altitude standard. This has the effect of requiring the same degree of control from vehicles and engines at each altitude.

Scant data are available on the effect of altitude on light-duty diesel vehicle particulatae emissions, and no such data are available for heavy-duty diesel engines. Limited light-duty data indicate a 50 percent increase in diesel engine particulate emission at high altitudes.[2] However, the engines in these vehicles were all naturally aspirated. Turbocharged engines should be affected to a much lower degree (*i.e.*, 0 to 10 percent increase), since turbocharger boost is controlled in terms of absolute pressure and should automatically compensate for the lower air density at high altitude. Since the majority of heavy-duty diesels are turbocharged, the overall particulate increase at high altitude should be approximately 20 percent. EPA solicits comment on this level of the proportional increase in heavy-duty diesel particulate emissions at high altitudes, and is especially interested in obtaining relevant data.

In addition to the technologies discussed in the Alternatives section (including trap-oxidizers), high-altitude engines may also require the use of an aneroid pressure sensor and additional race control linkage on those engines not equipped with turbochargers (turbocharged heavy-duty diesel engines already have boost pressure sensors which can be made to adjust for high-altitude operation) in order to comply with the particular standards. The widespread use of electronic engine controls anticipated by 1990 for emission control and other purposes, in conjunction with the other technologies discussed, should make compliance with the high-altitude particulate standards no more difficult than compliance at low altitude. Fuel economy effects on high-altitude heavy-duty diesels should be approximately the same as those at low altitude.

4. High-Altitude Light-Duty Truck Emission Standards

Standards for NO_x, idle CO and particulate emissions from light-duty trucks sold for principal use at high altitude are also proposed by today's notice. These standards will complete action on the high-altitude emission standards for light-duty trucks. Each is briefly discussed below.

NO_x. The standards proposed for NO_x emissions from 1987 and later model year high-altitude light-duty trucks are the same as those proposed for low-altutude areas: 1.2 g/mi for light-duty trucks up to and including either 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, and 1.7 g/mi for light-duty trucks over both 6,000 lbs gross vehicle weight and 3,999 lbs equivalent test weight. Since NO_x emissions do not tend to increase with altitude, no increase in the numerical level of the standards is proposed. The impacts of these proposed standards are quite similar to those discussed in greater detail for low-altitude light-duty trucks.

Idle CO. This notice also proposes that an idle CO emission standard be implemented for 1987 and later model year light-duty trucks sold for principal use at high altitude. Such a standard is being proposed here because EPA desires to maintain consistency in the low- and high-altitude light-duty truck emission standards, and because it was inadvertantly left out of the high-altitude light-duty truck proposed rule (45 FR 5988, January 24, 1980). The need for and benefits from an idle CO standard at high altitude are similar to the need and benefits at low altitude. [A more detailed discussion of the idle CO standard for light-duty trucks can be found in the Summary and Analysis of

[2] "Controlling Emissions from Light-Duty Motor Vehicles at Higher Elevations—A Report to Congress," EPA–460/3–83–001, U.S. EPA, OAR, OMS, February 1983.

Comments to the final rule for revised heavy-duty engine HC and CO standards.[2] Although that document deals with the idle CO standard at low-altitude, the discussion is also applicable to the proposed high-altitude standard.)

The proposed standard is 0.50 percent of exhaust gas flow at curb idle, which is the same as the idle CO emission standard for light-duty trucks at low altitude. The method used to derive this standard is discussed below.

The baseline level of light-duty truck idle CO emissions at low altitude was determined to be 4.7 percent of exhaust gas flow. To determine the absolute change in idle CO emissions with increased altitude, the same fleet of 1970 model year light-duty vehicles used to determine the effects of altitude on HC and CO exhaust emissions was used. (Data from these vehicles were used since specific data characterizing the effect of increased altitude on light-duty truck emissions are not available.) The change was an increase of 0.4 percent of exhaust gas flow; thus the high-altitude baseline light-duty truck idle CO level was estimated to be 4.7 plus 0.4, or 5.1, percent.

The low-altitude light-duty truck idle CO standard represents a 90 percent reduction from the baseline, rounded to 0.50 percent. A 90 percent reduction applied to the high-altitude baseline derived above yields a standard of 0.51 percent. This is not significantly different from the low-altitude standard, so EPA has decided to propose the same standard for high altitude.

EPA believes that this standard will impose no discernible burden on the affected manufacturers. In fact, as with low-altitude light-duty trucks, EPA anticipates that for any light-duty truck meeting the high-altitude exhaust CO emission standard, compliance with the idle CO standard in the 1987 model year should be virtually automatic. Thus, no significant need for leadtime exists. EPA does not expect this standard to have any impact on cost or fuel economy.

particulate. The proposed particulate standard for high-altitude light-duty trucks, in 1987 and later model years, is 0.26 g/mi. As was the case with the idle CO standard, proposal of this standard was inadvertently omitted from the light-duty truck high-altitude rulemaking. Although diesel particulate tends to increase with altitude, EPA Is proposing the same standard for high-altitude as already exists for low-altitude. The general reason for adjusting a standard for altitude is to allow use of the same control technology for both low- and high-altitude. In this case such an adjustment is not necessary to attain that goal. The only impact of using the same standard at low- and high-altitude would be the need for a somewhat higher fraction of trap-equipped vehicles at high-altitude. This approach is also consistent with that used for light-duty diesel vehicles, which have the same particulate standard at low- and high-altitude.

EPA believes that this standard will have little impact on manufacturers' compliance plans. Although they would not otherwise have been required to meet any high-altitude particulate requirements, the Agency expects that trap useage would still have been carried over to high altitude vehicles as a matter of course. This proposal insures that such carryover will indeed occur.

5. Heavy-Duty Engine Test Procedures Revision

Today's notice proposes several revisions to the heavy-duty engine test procedures contained in Subpart N of 40 CFR Part 86. These are the inclusion of particulate testing and measurement procedures for heavy-duty diesel engines revisions pertaining to the measurement and calculation of NO_x emissions, and other minor technical corrections.

The incorporation of particulate testing procedures for heavy-duty diesel engines is fundamentally related to the proposed establishment of particulate emission standards. This action will require numerous revisions within Subpart N, which cannot all be detailed here. The procedure is basically the same as was proposed in the heavy-duty diesel particulate proposal (46 FR 1910); only the changes that have been made since that time are discussed below.

The particulate measurement procedure requires a dilution tunnel and proportional mass sampling of the diluted exhaust stream. This could be accomplished in either of two ways: through the use of two constant mass sampliers, or through the use of a variable mass sampler in conjunction with the standard CVS. The temperature of the diluted exhaust at the location of the particulate filter would have to be kept below 125 °F (51.7 °C) at all times.

Provisions for measuring background particulate levels have been incorporated into the test procedure, and the procedure has been made consistent with various minor changes that were made to the light-duty test procedure before it was promulgated. For complete details, the reader is referred to the draft regulations appearing at the end of today's notice.

Two technical aspects of the measurement and calculation of heavy-duty engine NO_x emissions were commented on by the manufacturers in their responses to earlier proposals. The first deals with bag versus continuous sampling procedures, and possible adjustments to the NO_x standards depending on the method chosen. The NO_x standards proposed today and discussed in preceding sections are technology-based (*i.e.*, based on test data). All of the gasoline-fueled heavy-duty engine NO_x data used in determining the level of the standards were obtained by bag sampling, while all of the heavy-duty diesel engine data were obtained using direct (continuous) sampling procedures. The measurement techniques characteristic of each engine type are accounted for in the standards, even though they have the same numerical values for both engine types.

EPA expects that gasoline-fueled heavy-duty engine NO_x measurements will continue to be performed using bag sampling procedures, while heavy-duty diesel engine NO_x measurements will continue to be performed using direct sampling. The proposal recognizes the likelihood of this, and bases the respective gasoline-fueled and diesel heavy-duty engine NO_x standards on the corresponding procedures. A correction factor has also been included to be applied to gasoline-fueled heavy-duty engine NO_x data obtained through direct measurement. Since EPA proposes allowing gasoline-fueled heavy-duty engine manufacturers the option of using direct sampling for NO_x measurement, this factor will be applied to all gasoline-fueled heavy-duty engine NO_x data obtained using direct sampling. Since no heavy-duty diesel engine manufacturers use bag sampling procedures, no provisions for such an option are proposed today.

The other technical aspect of the NO_x test procedure on which EPA received comment is the humidity correction factor. EPA has derived such a factor, which is already included in Subpart N, on the basis of current NO_x levels and humidity specifications. At this time, it is still uncertain whether a factor derived from current levels can be applied to the much lower model year 1990 NO_x levels. EPA will be collecting additional data that will be used to further evaluate the applicability of this correction factor, in conjunction with the ongoing heavy-duty emission factors testing program. As part of today's

[2] "Summary and Analysis of Comments on the Notice of Proposed Rulemaking for Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines," pp. 134–139, U.S. EPA, OAR, OMS, July 1983. This document is available in Docket No. A–81–11 (see "Addresses").

proposal, EPA solicits comment and supporting data on the appropriate level of a humidity correction factor to be applied to NO_x measurements under the proposed standards and on the need for changing the existing factor.

EPA also requests comment on several potential improvements to the transient test procedure and on the details of such revisions. These are: (1) relaxing one required cycle performance statistic (standard error-horsepower) for diesel engines, (2) adding a standard calibration procedure for the throttle control system for gasoline-fueled engines, and (3) changing the primary torque measurement method to an electronically-compensated case-load system.

Finally, Subpart N sections directly affected by other provisions of today's proposal are reorganized in the draft regulations to improve logical order and readability. These changes have no substantive effect.

6. In-Use Durability Program

The heavy-duty engine NO_x advance notice (46 FR 5838) indicated EPA's intent to propose revisions to the durability testing procedures applicable to light-duty trucks and heavy-duty engines. The focus of these revisions was the use of an in-use fleet of production vehicles or engines to determine deterioration factors.

EPA has decided not to propose such a program at this time. The new durability testing requirements were intended to provide greater assurance that the deterioration factors used in the certification process adequately represented in-use emission deterioration. However, since the in-use durability program was first proposed, there have been several changes that may act to accomplish that goal.

The heavy-duty engine manufacturers and EPA have begun a cooperative testing program aimed at developing more accurate and representative in-use heavy-duty engine emission factors. These factors are used in the analyses by which air quality improvements resulting from emission control regulations are projected. EPA is encouraged both by the goals of this program and the cooperative framework under which it is being conducted. Such testing will provide EPA with data on in-use emissions performance, and enable the Agency to decide at some point in the future whether an in-use durability testing program is needed.

Second, an important regulatory change has been promulgated since in-use durability testing was proposed. This is the change to full-life useful life promulgated in the final rule for revised heavy-duty engine HC and CO standards (48 FR 52170). Since deterioration factors must now be based on the full useful life of light-duty trucks and heavy-duty engines, and since manufacturers have increased liability for the in-use performance of their vehicles or engines, compliance with applicable emission standards in-use is more likely. Full-life requirements will themselves focus manufacturers' attention on out-year emissions performance.

Third, EPA notes that under the current full-life durability testing requirements, manufacturers are given full responsibility not only for determining the deterioration factors, but also for the method used in those determinations, subject only to the restraint that testing be designed and conducted in accordance with good engineering judgment to assure that the vehicle or engine will comply with the applicable emission standards in actual use for the useful life of the vehicle or engine. This means that the manufacturers have the opportunity to generate accurate in-use emissions performance data with considerably greater flexibility than the originally proposed in-use durability program would have allowed, and to use this information to improve the representativeness of the deterioration factors submitted for certification. By doing so, the industry can demonstrate good faith efforts at compliance with the current regulations, thereby avoiding the need for additional regulatory action.

As an example, one heavy-duty engine manufacturer (Cummins) responded to the proposed in-use durability testing requirements with a proposal likely to aid in attaining the goals of increased accuracy and representativeness of deterioration factors. Basically, this proposal would take heavy-duty engines which have accumulated in-use service, remove them from the heavy-duty vehicles in which they had been used, then test them for emissions deterioration. These test results would then be used in the development of accelerated laboratory test procedures for other engine families, to more accurately simulate in-use emissions deterioration. EPA is encouraged by the nature of this initiative and believes that it reflects a serious effort at complying with both the letter and the intent of the current requirements.

As was indicated in many of the comments received in response to the advance notice, the expenses and difficulties associated with implementation of the in-use durability program would be significant. This is particularly true for heavy-duty engines, since the logistics of locating in-use engines for emission testing would at best be difficult. The expense could be very high; in addition to the costs to the manufacturer, there would be considerable expense and inconvenience to the owner/operator of a heavy-duty vehicle solicited for testing. In fact, it is possible that manufacturers would have difficulty persuading owner/operators to give up use of their heavy-duty engines for the necessary testing. While EPA does not believe that these problems are insurmountable, they are significant, and in light of the other developments discussed above, they argue for a delay in further revisions to the durability testing requirements.

Although EPA is not proposing the in-use durability program today, this does not mean that such a program might not be proposed at a later date. If continued monitoring of heavy-duty engine emission test results from in-use cooperative testing programs reveals that the deterioration factors determined and submitted by the manufacturers are unrepresentative of in-use emissions deterioration, EPA reserves the option of later proposing a program similar to that described above.

7. Technical Corrections

On November 16, 1983, EPA published a final rule for revised HC and CO emission standards for 1985 and later model year light-duty trucks and heavy-duty engines (48 FR 52170). That rulemaking involved extensive revisions to Subparts A and N of 40 CFR Part 86, as well as lesser revisions to other subparts. Since that time, EPA has determined that two technical errors occurred in those regulations as published. In § 86.085–25(b)(1)(iii)(B), the maintenance intervals for light heavy-duty diesel engine injectors and turbochargers were intended to be of equal stringency to those for light-duty trucks, based on the closeness of their respective useful life periods. However, those intervals were incorrectly specified at the same stringency as those applicable to medium and heavy heavy-duty diesel engines. EPA proposes correction of this error, at § 86.087–25(b)(4)(ii) in the draft regulations. In § 86.087–28(b)(6)(ii)(C), the definition of "line crossing" refers incorrectly to the interpolated 4,000- and 5,000-mile points. This is proposed to be corrected to refer to the interpolated 4,000- and 120,000-mile points. A typographical error in § 86.087–28(b)(4)(ii) is also proposed to be corrected here.

III. Impacts of the Proposal

A. Environmental Impact

The standards contained in today's proposal are intended to reduce NO_x and particulate emissions to the atmosphere. EPA has prepared air quality analyses that estimate the improvements in ambient air quality which would result from implementation of these standards. The highlights of these analyses are summarized in this section. The complete analyses are included in the Draft Regulatory Impact Analysis, and the "Diesel Particulate Study,"[1] both available in the docket referenced above. The Draft Regulatory Impact Analysis incorporates the NO_x Pollutant Specific Study, concerning the effects of NO_x emissions from heavy-duty vehicles and engines on the public health and welfare, as required by section 202(a)(3)(E) of the Act.

1. Particulate

The aim of the standards in today's proposal is to hold heavy-duty diesel particulate emissions at or below 1983 levels, thereby preventing significant growth in total diesel particulate emissions.

Lifetime per-vehicle particulate emissions from heavy-duty diesel engines would be reduced substantially by implementation of today's proposed standards. Current lifetime per-vehicle particulate emissions from heavy-duty diesels average about 0.78 tons. Under the proposed 1987 standard of 0.60 g/BHP-hr, these emissions would drop by more than 14 percent, to 0.67 tons per vehicle. The 0.25 g/BHP-hr standard proposed for 1990 would further reduce these average lifetime per-vehicle emissions to about 0.34 tons. Thus, lifetime per-vehicle emissions after 1990 would be about 56 percent lower.

The impact of these reductions on total particulate emissions from all in-use heavy-duty diesel engines in 1995 would be significant. Despite the expected growth in diesel sales and vehicle miles travelled between 1983 and 1995, total particulate emissions from heavy-duty diesels in 1995 are projected to be about 5 percent below 1983 levels, and 50 percent below projected 1995 levels without this control.

In spite of the reductions expected in heavy-duty diesel emissions, overall diesel particulate levels may continue to increase between 1983 and 1995. Best estimate growth projections indicate an increase in total diesel particulate of over 40 percent from 1983 to 1995, attributable to growth in diesel light-duty vehicle and light-duty truck emissions.

The discussion of the environmental need for particulate control earlier in today's notice stated that in 1995, without new standards, the urban concentration of fine suspended particulate matter from diesels would be about 2 to 8 $\mu g/m^3$, up from current concentrations estimated at about 1 to 3 $\mu g/m^3$. The standards proposed today would limit the increase otherwise expected in overall emissions, so that the resulting increase in ambient air concentration would also be reduced. In particular, 1995 ambient concentrations of diesel particulate would be reduced by about 1 to 3 $\mu g/m^3$, to a range of about 1 to 5 $\mu g/m^3$.

Without additional control of diesel particulate, EPA projected that visibility in large urban areas would be reduced by about 21 percent by 1995, compared to visibility assuming no diesel particulate emissions. The visibility reductions in smaller urban areas was projected to be 3 to 8 percent. The particulate control represented by today's proposed standards is projected to reduce these impacts, to about 14 percent in large urban areas and to between 2 and 5 percent in smaller urban areas. With regard to soiling, the proposed standards should result in a significant cost savings.

2. NO_x

The proposed NO_x standards would significantly reduce light-duty truck and heavy-duty engine NO_x emissions. The projected emission reductions for each class of vehicle and engine are described below, followed by the impacts on attainment status and average ambient NO_2 concentrations.

Light-duty trucks. The 1.2 and 1.7 g/mi light-duty truck NO_x standards would reduce lifetime per-vehicle NO_x emissions by nearly half from current levels. Under the current 2.3 g/mi standard, gasoline-fueled and diesel light-duty trucks emit an average of about 0.3 tons of NO_x over their full useful life. The proposed standard would reduce these lifetime per-vehicle emissions to about 0.17 tons for light-duty trucks meeting the 1.2 g/mi standard, representing a reduction of about 42 percent, and to about 0.21 tons for those light-duty trucks meeting the 1.7 g/mi standard, representing a reduction of about 30 percent.

These reductions, when combined with estimates of annual sales and vehicle miles travelled, reveal that total NO_x emissions from light-duty trucks in 1995 would be reduced by about 29 percent from the levels projected without this control, in both low-and high-altitude areas. However, compared to 1980 levels, overall light-duty truck NO_x emissions would be virtually unchanged in 1995, since the reductions in per-vehicle emissions would offset projected growth in vehicle miles traveled. Taking into account the contribution of light-duty trucks to total NO_x emissions, 1995 NO_x emission inventories would be about 2 percent lower than those projected without these standards.

Gasoline-fueled heavy-duty engines. The NO_x standards proposed for heavy-duty engines would reduce lifetime emissions from gasoline-fueled heavy-duty engines by nearly half after 1990. Lifetime emissions of NO_x from these engines are about 1.19 tons under the current standard. This figure would drop to about 1.04 tons with the 1987 standard and to about 0.69 tons with the 1990 standard, representing reductions of 13 and 42 percent, respectively.

Total NO_x emissions from all gasoline-fueled heavy-duty engines in use in 1995 would be reduced by about 30 percent from levels projected without further control. This results in total 1995 NO_x emissions inventories being about one percent lower than those projected to occur without these standards.

Heavy-duty diesel engines. The projected reductions in NO_x emissions from heavy-duty diesel engines are comparable, on a percentage basis, to those from gasoline-fueled heavy-duty engines. These reductions would be much larger in absolute terms, however, illustrating the major role these engines play in overall NO_x emissions and the importance of controlling their emissions.

Under the current standards, average lifetime NO_x emissions from heavy-duty diesel engines are about 9.8 tons. The proposed 1987 standard would lower these emissions to about 8.3 tons, a reduction of 15 percent. Under the proposed 1990 standard, lifetime emissions would be further reduced to about 5.5 tons, a drop of 44 percent from current levels.

These reductions would lead to decreases in total 1995 heavy-duty diesel NO_x emissions of approximately 30 percent from levels projected without these standards. Compared to 1980, heavy-duty diesel NO_x levels would increase about 40 percent. Since these engines play such a dominant role in overall NO_x emissions, total 1995 NO_x emission inventories are projected to be about 10 percent lower than would be the case without this control.

Total impact of proposed NO_x standards. The primary National Ambient Air Quality Standard for NO_2 is an annual average concentration of 0.053 parts per million (ppm). The air

quality analysis examined six low-altitude and two high-altitude standard metropolitan statistical areas (SMSAs) that currently have annual average NO_2 concentrations of 0.040 ppm or greater, meaning that these areas are within 25 percent of the standard.

Without the NO_x control that will result from the new standards contained in this proposal, both of the high-altitude and three of the six low-altitude SMSAs are projected to be in non-attainment of the standard in 1995. In addition, two other low-altitude SMSAs are projected to have ambient NO_2 concentrations at the 0.053 ppm standard. Thus, only one of the eight SMSAs examined would be safely within the NO_2 standard.

The combined impact on total 1995 NO_x emissions inventories of all of the NO_x standards proposed today would be about a 13 percent reduction from levels projected without this control, although total NO_x emissions are still projected to increase by about 4 percent from the 1980 levels shown in Figure 2. These reductions are projected to improve average ambient NO_2 concentrations by 16 percent at low altitude and 17 percent at high altitude from the concentrations projected without this control. These benefits would improve the attainment status of the SMSAs considerably, essentially back to baseline year levels.

B. Economic Impact

The complete economic analysis of today's proposal is contained in the Draft Regulatory Impact Analysis, which is available in the docket. The highlights of that analysis are summarized here. All figures are in 1984 dollars and assume a 10 percent discount rate.

The costs of these regulations can be broken down into several components. The cost incurred by the manufacturers is the total of research and development, hardware, new test equipment, and added testing costs. These costs are generally recovered from consumers by their incorporation into the price of new vehicles or engines. The total, or lifetime, cost to the consumer is then the sum of the new price increase and any changes in the cost of operation and maintenance, based on changes in fuel consumption and increases or decreases in required maintenance over the life of the vehicle or engine. The aggregate cost of the nation is then derived from the cost to the consumer and the number of vehicles projected to be sold in a given period.

For light-duty trucks, the aggregate cost is calculated on a five-year basis (1987 through 1991). The aggregate costs for heavy-duty engines, however, are calculated over two three-year periods, 1987 through 1989 and 1990 through 1992. This is because the standards proposed for heavy-duty engines in this notice are at interim levels: the 1987 standards will be superseded by the 1990 standards, which in turn must be revisited in a later rulemaking. Aggregate costs are estimated each of the applicable three-year cycles, 1987 through 1989 and 1990 through 1992.

In the following summary, costs are estimated for each of the effected vehicle classes (light-duty trucks, and gasoline-fueled and diesel heavy-duty engines). The total cost of the regulations in today's proposal is then the sum of the costs by class of vehicle.

Light-Duty Trucks. As has been noted, the high-altitude idle CO Standard for light-duty trucks is not expected to result in any increase in cost to either the manufacturer or the consumer. The high-altitude NO_x and particulate standards for light-duty trucks, while not proportional, are based on the same technology that is expected to be used at low altitudes, and therefore are not expected to generate any significant increase in cost. Thus the light-duty truck costs result primarily from the revised NO_x standards.

The costs attributable to the new NO_x standards, for research and development and recertification testing expended prior to 1987, and for hardware on 1987 through 1991 model year light-duty trucks, are estimated to be $1.29 billion (undiscounted). All but about $27 million of this amount would be for hardware. This cost would translate to an increase of $44 to $87 in the estimated purchase price of an average new 1987 model year gasoline-fueled light-duty truck, and an increase of $35 in the purchase price of an average new 1987 model year light-duty diesel truck. No fuel economy impact or change in operating and maintenance costs is anticipated, so this also would represent the total cost to the consumer over the life of the vehicle.

Based on the best estimates of light-duty truck sales, the discounted five-year (1987 to 1991 inclusive) aggregate cost to the nation of the light-duty truck NO_x standards would be between $612 million and $1.08 billion. This would break down to $124 million for diesel light-duty trucks, and $488 to 965 million for gasoline-fueled light-duty trucks.

Gasoline-Fueled Heavy-Duty Engines. There are two NO_x standards proposed in today's notice for gasoline-fueled heavy-duty engines, to take effect in the 1987 and 1990 model years. The costs to the manufacturers and to consumers are outlined first for the 1987 standards, then for the 1990 standards relative to the costs for 1987 through 1989. The aggregate costs are based on the two three-years periods, 1987 through 1989 and 1990 through 1992.

The 6.0 g/BHP–hr NO_x standard for 1987 would require manufacturer expenditures of $1.5 million for research and development and recertificatioin testing prior to 1987. No retooling or hardware costs are expected, nor is there any need for new test equipment. Purchasers of new 1987 model year gasoline-fueled heavy-duty engines would see a first price increase of approximately $2 as a result. No changes in annual operating and maintenance costs are anticipated, and the fuel economy impact of this standard, if any, is expected to be very slight.

The more stringent 4.0 g/BHP–hr NO_x standard for 1990 and later would require additional industry expenditures of $17.4 million for additional research and development and recertification testing, and for hardware on 1990 through 1992 model year engines. Again, no need for additional test equipment is expected. These costs would increase the purchase price of new 1990 model year gasoline-fueled heavy-duty engines by $18 over the model year 1987 costs.

The three-year aggregate cost of the model year 1987 NO_x standards, discounted to 1987, would be $1.8 million. The three-year aggregate cost of the model year 1990 standard, discounted to 1990, would be $19.0 million. Expressed as an equivalent single lump-sum investment in 1987, the total six-year aggregate cost of the 1987 and 1919 NO_x standards for gasoline-fueled heavy-duty engines would be $16 million.

Heavy-Duty Diesel Engines. The cost estimates for heavy-duty diesel engines are more complicated, since both NO_x and particulate standards are proposed for 1987 and 1990. As in the preceding discussion of gasoline-fueled heavy-duty engine costs, cost estimates are presented for the 1987 standards and for the 1990 standards relative to the costs for 1987 through 1989.

The 1987 NO_x and particulate standards would require manufacturer expenditures of $29.0 million for research and development and for recertification testing prior to 1987. The cost of hardware to be used on 1987 through 1989 model year engines is estimated at $17.7 million. Thus, the total increase in manufacturer expenditures due to the 1987 standards would be about $46.7 million. Discounted to 1987, the cost would be approximately $49.8 million.

These costs would be recovered through an expected increase of $47 in

the purchase price of new heavy-duty diesel engines. Discounted lifetime operating costs could rise by up to $730, due to a maximum projected fuel economy penalty of 2 percent. The net discounted cost to the consumer per heavy-duty diesel engine thus would be estimated as being between $47 and $777. However, EPA believes that the fuel economy impact of the 1987 standard is likely to be less than this maximum projection, and will gradually be eliminated as new technology is introduced in subsequent model years.

With the implementation of more stringent NO_x and particulate standards in 1990, manufacturers would face additional expenditures of $866 million. The bulk of this amount would be represented by the cost of new hardware (primarily trap-oxidizers) on 1990 through 1992 model year engines. This is projected to boost the purchase price of new heavy-duty diesel engines by about $715 over 1989 costs. To provide some perspective on this figure, heavy-duty diesel engines cost between $2,000 and $12,000 each, and completed heavy-duty diesel vehicles can cost as much as $100,000. The lifetime cost of owning and operating a line-haul heavy-duty diesel is about $275,000. Thus, the cost of these standards are small with respect to total costs.

Taking a maximum projected fuel economy penalty of one to 4 percent into account, discounted fuel costs over the life of the engine would incease by between $365 and $1,461. EPA has very little data on which to base estimates of fuel economy penalties for heavy-duty diesel engines. Some applications, in both 1987 and 1990, may not suffer any fuel economy penalties; the estimates contained in this analysis are the maximum effects expected for any affected engines. In addition, any fuel economy penalties that might occur as a result of the 1990 standards should decrease, and eventually be eliminated, as more advanced technology is phased in and efforts to minimize fuel consumption are emphasized. Thus, the 2 percent (for 1987) and 4 percent (for 1990) fuel economy penalties included in this analysis should be considered as estimates o the upper bounds on possible fuel economy impacts.

Maintenance savings of $26 are expected to result from reduced replacement costs of exhaust pipes. Thus a net increase in operating and maintenance costs of between $339 and $1,435 would be expected, and the net lifetime cost to the owner of a heavy-duty diesel engine would be between $1,054 and $2,150.

The aggregate cost of the 1987 standards for the three-year period 1987 through 1989, discounted to 1987, is estimated to be $49.8 million. The aggregate cost of the 1990 standards, discounted to 1990 and representing the three years 1990 through 1992, is estimated to be $814 million. If the costs of the 1990 standards are also discounted to 1987, the total cost of these standards for heavy-duty diesel engines can be viewed as equivalent to a lump-sum investment of $661 million in 1987.

C. Cost Effectiveness

The methodology used to estimate the cost effectiveness of these standards is explained in detail in the Draft Regulatory Impact Analysis. The results of that analysis show that on an urban air quality basis, the control of diesel particulate emissions is cost effective relative to stationary source particulate control. Table 1 shows the cost effectiveness of the NO_x standards proposed today in relation to two other potential mobile source NO_x control strategies, and indicates that these standards are more cost effective than other potential programs for controlling vehicle NO_x emissions. The proposed light-duty truck NO_x standards, however, are the least cost effective of the proposed NO_x standards and may be more or less cost effective than control of stationary sources.

TABLE 1.—COMPARATIVE LIFETIME COST-EFFECTIVENESS OF MOBILE SOURCE NO_x CONTROLS

Mobile source NO_x control strategy	Cost effectiveness* (per ton)
Gasoline-fueled heavy-duty engines:	
(1987 standard)	15
(1990 standard)	55
Diesel heavy-duty engines:	
(1990 standard)	100–360
(1987 standard)	10–480
Diesel light-duty trucks	340
Gasoline-fueled light-duty trucks	320–630
Light-duty vehicles (1.0 to 0.4 g/mi)	2,400
Light-duty vehicles (I/M)	2,500

*Values ranked by midpoints of ranges.

Light-Duty Truck NO_x. The projected emission reductions and cost estimates given above, with costs computed on a lifetime basis, yield a cost effectiveness for diesel light-duty trucks of $340 per ton of NO_x emissions prevented. In the case of gasoline-fueled light-duty trucks, the per-ton cost of NO_x emissions reduction would be between $320 and $630. Both values compare quite favorably with the cost effectiveness of reducing light-duty vehicle NO_x emissions trhough lowering the NO_x standard from 1.0 to 0.4 g/mi or through inspection and maintenance programs.

Gasoline-Fueled Heavy-Duty Engine NO_x. The cost effectiveness of the proposed NO_x standards for gasoline-fueled heavy-duty engines would be very good. Although the control of NO_x emissions from these engines would not lead to large reductions in NO_x emission inventories, since gasoline-fueled heavy-duty engines are a relatively minor fraction of the total, the costs of this control would be very low. Thus, the lifetime cost effectiveness would be excellent. For the 6.0 g/BHP-hr NO_x standard proposed for 1987, the cost per ton of reduced NO_x emissions would be about $15. Even with the tighter 4.0 g/BHP-hr standard proposed for 1990, the cost effectiveness value would be only about $55 per ton of NO_x reduction.

Heavy-Duty Diesel Engine No_x. The lifetime cost effectiveness for the proposed 1987 No_x standard ranges from $10 to $480 per ton reduction in No^x emissions, depending on fuel economy effects. The corresponding value for the reductions due to the 1990 standard would be between $100 and $380, again depending on the fuel economy effects. These values also compare very favorably with the cost effectiveness of the light-duty vehicle No_x control strategies shown in Table 1.

Heavy-Duty Diesel Engine Particulate. In the Draft Regulatory Impact Analysis, it was noted that comparisons of the cost effectiveness of emission control from stationary and mobile sources had to account for the different impact that emissions from each source category have on air quality. This is especially true in the case of particulate, where the focus of existing air quality problems is in urban areas. This analysis therefore examined the urban air quality impacts of the particulate standards proposed here. In other words, EPA has considered only the particulate reductions projected to occur as a result of today's proposal in urban areas, and has not used non-urban particulate reductions in calculating cost effectiveness.

On this basis, the cost effectiveness for the proposed 1987 particulate standard of 0.60 g/BHP-hr, which will not require the use of trap-oxidizers, would be about $1,400 per ton reduction in emissions of particulate matter. Combined with the proposed 1990 standard of 0.25 g/BHP-hr, which will require about 70 percent of heavy-duty diesel engines to use traps, the total urban cost effectiveness would be about $10,000 per ton.

IV. Public Participation

Comments and the Public Docket

As in past rulemaking activities, EPA desires full public participation in

arriving at final rulemaking decisions. In addition to those areas where specific comment has been requested earlier in this preamble, EPA solicits comments on all aspects of today's proposals from all interested parties. Wherever applicable, full supporting data and detailed analyses should also be submitted to allow EPA to make maximum use of the coments. Commenters are especially encouraged to provide suggestions for modification of any aspects of the proposal that they find objectionable. All comments should be directed to the Central Docket Section, Docket No. A–80–18 (*see* "Addresses").

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertantly placed in the docket.

Information covered by such a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

Public Hearings

Any person desiring to present testimony regarding this proposal at the public hearings (*see* "Dates") should, if possible, notify the contact person listed above of such intent at least seven days prior to the opening day of the hearing. The contact person should also be given an estimate of the time required for the presentation of the testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling of the order of testimony.

It is suggested that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, it will be helpful for EPA to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date, in order for EPA staff to have adequate time to give such material full consideration. Such advance copies should be submitted to the contact person listed above.

The official records of the hearings will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Central Docket Section, Docket No. A–80–18 (*see* "Addresses").

Mr. Richard D. Wilson, Director of the Office of Mobile Sources, is hereby designated Presiding Officer of the hearings. The hearings will be conducted informally, and technical rules of evidence will not apply. Written transcripts of the two hearings will be taken. Anyone desiring to purchase a copy of either transcript should make individual arrangements with the court reporter recording the proceedings.

V. Statutory Authority

Citations from the Act particularly relevant to the NO_x and particulate standards contained in today's proposal have been discussed in earlier portions of this notice. Authority for the allowable maintenance provisions and for the light-duty truck high-altitude standards is provided by the following sections of the Act:

Section 206(a)(1), which provides in part that "the Administrator shall test, or require to be tested, in such manner as he deems appropriate, any new motor * * * vehicle to determine whether such vehicle * * * conforms with the regulations prescribed under Section 202 of this Act."

Section 207, which authorizes the Administrator to promulgate regulations to ensure compliance with applicable emission regulations by vehicles and engines in actual use.

Section 208, which authorizes the Administrator to require manufacturers of new motor vehicles and new motor vehicle engines to maintain and to submit such records as may reasonably be required in order to determine that the manufacturer has acted or is acting in compliance with regulations promulgated under this part.

Section 301(a), which provides in part that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

In addition, EPA believes that the broad authority to promulgate regulations governing manufacturers' compliance with section 202 of the Act provides the necessary authority for the particulate averaging program proposed in this notice.

List of Subjects in 40 CFR Part 86

Administrative practice and procedures, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Administrative Designation and Regulatory Analsysis

The Administrator has determined that this action constitutes a major regulation, and accordingly a Draft Regulatory Impact Analysis has been prepared as required under Executive Order 12291. This analysis includes detailed assessments of the estimated economic and environmental impacts of the regulations proposed here, as well as more thorough analyses of the technological feasibility of the emission standards and other regulatory provisions proposed here, and the alternatives that were considered in the development of this proposal.

The Draft Regulatory Impact Analysis has been placed in the public docket referenced at the beginning of today's notice. In addition, interested parties may obtain single copies through a written request to: Director, Emission Control Technology Division, Office of Mobile Sources, 2565 Plymouth Road, Ann Arbor, MI 48105, Attn: Heavy-Duty Section.

This regulation was submitted to the Office of Managment and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

Impact on Small Entities

Section 605 of the Regulatory Flexibility Act requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entites. I certify that this regulation does not have such an effect because it primarily affects only manufacturers of motor vehicles and motor vehicle engines, a group which does not contain a substantial number of small entities.

Reporting and Recordkeeping Requirements

Most of the information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB Control Number 2000–0390. The information collection provisions relating to the heavy-duty diesel particulate standard have been submitted for approval to OMB. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public

comments on the information collection provisions.

Authority for the actions proposed in this notice is granted EPA by sections 202, 203, 206, 207, 208, and 301 of the amended Clean Air Act (42 U.S.C. 7521, 7522, 7525, 7541, 7542, and 7601.)

Dated: October 5, 1984.

Alvin L. Alm,

Deputy Administrator.

PART 86—[AMENDED]

For the reasons set forth in the Preamble, Part 86 of Title 40 of the Code of Federal Regulations is amended as set forth below:

1. The authority for Part 86 is revised to read as follows:

Authority: Sec. 202, 203, 206, 207, 208, 301a, Clean Air Act as Amended; 42 U.S.C. 7521, 7522, 7525, 7541, 7542, 7601a.

2. A new Subpart As consisting of § 86.2500 is proposed to be added to Part 86, to read as follows:

Subpart AA—Reporting and Recordkeeping Requirements for Part 86

§ 86.2500 Reporting and recordkeeping requirements.

All reporting and recordkeeping requirements contained in Part 86, except for those requirements contained in Subparts G and K, have been approved by the Office of Management and Budget under control number 2000–0390.

Subpart A—[Amended]

3. A new § 86.087–2 is proposed to be added to Subpart A, to read as follows:

§ 86.087–2 Definitions.

The definitions in § 86.085–2 remain effective. The definitions in this section apply beginning with the 1987 model year.

"Critical emission-related components" are those components which are designed primarily for emission control, or whose failure may result in a significant increase in emissions accompanied by no significant impairment (or perhaps even an improvement) in performance, driveability, and/or fuel economy as determined by the Administrator.

"Critical emission-related maintenance" means that maintenance to be performed on critical emission-related components.

"Emission-related maintenance" means that maintenance which does substantially affect emissions or which is likely to affect the emissions deterioration of the vehicle or engine during normal in-use operation, even if the maintenance is performed at some time other than that which is recommended.

"Non-emission-related maintenance" means that maintenance which does not substantially affect emissions and which does not have a lasting effect on the emissions deterioration of the vehicle or engine during normal in-use operation once the maintenance is performed.

4. Section 86.087–9 of Subpart A is proposed to be amended by revising paragraphs (a)(1)(iii), (d)(1)(ii), (d)(1)(iii) and (d)(2), and adding a new paragraph (d)(1)(iv), to read as follows:

§ 86.087–9 Emission standards for 1987 light-duty trucks.

(a)(1) * * *

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 6,001 lbs gross vehicle weight and greater and 4,000 lbs equivalent test weight and greater, 1.7 grams per vehicle mile (0.75 grams per vehicle kilometer).

* * * * *

(d)(1) * * *

(ii) *Carbon Monoxide.* (A) 14.0 grams per vehicle mile (8.7 grams per vehicle kilometer).

(B) 0.50 percent of exhaust gas flow at curb idle (gasoline-fueled vehicles only).

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to 6,000 lbs gross vehicle weight or 3,999 lbs equivalent test weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 6,001 lbs gross vehicle weight and greater and 4,000 lbs equivalent test weight and greater, 1.7 grams per vehicle mile (0.75 grams per vehicle kilometer).

(iv) *Particulate Emissions (diesels only).* 0.26 gram per vehicle mile (0.162 gram per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty truck engine families in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average both diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicle and diesel light-duty truck vehicles included in the average and is calculated as defined in § 86.085–2.

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (d)(1)(ii)(B) refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in Subpart P of this part.

* * * * *

5. Section 86.087–10 of Subpart A is proposed to be amended by revising paragraphs (a) (1) (i) (C) and (a) (1) (ii) (C), to read as follows:

§ 86.087–10 Emission standards for 1987 and later model year gasoline-fueled heavy-duty engines and vehicles.

(a) (1) * * *

(i) * * *

(C) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) * * *

(C) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

* * * * *

6. A new § 86.087–11 is proposed to be added to Subpart A, to read as follows:

§ 86.087–11 Emission standards for 1987 and later model year diesel heavy-duty engines.

(a) (1) Exhaust emisisons from new 1987 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* 15.5 grams per brake horsepower-hour, as measured under transient operating conditions.

(iii) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(iv) *Particulate emissions.* 0.60 grams per brake horsepower-hour, as measured under transient operating conditions.

(2) The standards set forth in paragraph (a) (1) of this section refer to the exhaust emitted over operating schedules as set forth in paragraph (f) (2) of Appendix I of this part, and measured and calculated in accordance with the procedures set forth in Subpart N of this part, except as noted in § 86.087–23(c) (2) (i) and (iii).

(b) (1) The opacity of smoke emission from new 1987 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b) (1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1987 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

(d) Model year 1987 and later heavy-duty diesel engines sold for principal use at a designated high altitude location shall be capable of meeting the following exhaust emission standards when tested under high altitude conditions:

(i) *Particulate Emissions.* 0.72 grams per brake horsepower-hour, as measured under transient operating conditions.

(e) except as provided in § 86.087–24 (b) (3) (iv) (B), every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a) (1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart I or N of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b), (c) and (d) of this section.

7. A new § 86.087–24 is proposed to be added to Subpart A, to read as follows:

§ 86.087–24 Test vehicles and engines.

(a) (1) the vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) to be classified in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) [Reserved]

(iii) [Reserved]

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of the intake and exhaust valves (or ports).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (*e.g.*, intercoolers and after-coolers) for diesel heavy-duty engines.

(3)(i) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(A) The bore and stroke.

(B) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center positions.

(C) The intake manifold induction port size and configuration.

(D) The exhaust manifold port size and configuration.

(E) The intake and exhaust valve sizes.

(F) The fuel system.

(G) The camshaft timing and ignition or injection timing characteristics.

(ii) Light-duty trucks and heavy-duty engines produced in different model years and distinguishable in the respect listed in paragraph (a)(2) of this section shall be treated as belonging to a single engine family if the Administrator requires it, after determining that the engines may be expected to have similar emission deterioration characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (a)(3) of this section, the Administrator will establish families for those engines based upon those features most related to their emission characteristics. Engines that are eligible to be included in the same engine family based on the criteria in paragraphs (a)(2) and (a)(3)(i) of this section may be further divided into different engine families if the manufacturer determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The dimension from the center line of the crankshaft to the center line of the camshaft.

(ii) The dimension from the center line of the crankshaft to the top of the cylinder block head face.

(iii) The size of the intake and exhaust valves (or ports).

(5) The gasoline-fueled light-duty vehicles and light-duty trucks covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) For gasoline-fueled light-duty vehicles and light-duty trucks to be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (*e.g.*, canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(8)(i) If the manufacturer elects to participate in the Alternative Durability Program, the engine families covered by an application for certification shall be grouped based upon similar engine design and emission control system characteristics. Each of these groups shall constitute a separate engine family group.

(ii) To be classed in the same engine family group, engine families must contain engines identical in all of the following respects:

(A) The combustion cycle.

(B) The cylinder block configuration (air-cooled or water-cooled; L–6, V–8, rotary, etc.).

(C) Displacement (engines of different displacement within 50 cubic inches or 15 percent of the largest displacement and contained within a multidisplacement engine family will be included in the same engine family group).

(D) Catalytic converter usage and basic type (noncatalyst, oxidation catalyst only, three-way catalyst equipped).

(9) Engine families identical in all respects listed in paragraph (a)(8) of this section may be further divided into different engine family groups if the Administrator determines that they are expected to have significantly different exhaust emission control system deterioration characteristics.

(10) A manufacturer may request the Administrator to include in an engine family group, engine families in addition to those grouped under the provisions of paragraph (a)(8) of this section. This request must be accompanied by information the manufacturer believes supports the inclusion of these additional engine families.

(11) A manufacturer may combine into a single engine family group those light-duty vehicle and light-duty truck engine families which otherwise meet the

requirements of paragraphs (a)(8) through (a)(10) of this section.

(12) The gasoline-fueled heavy-duty vehicles covered by an application for certification will be divided into groupings of vehicles on the basis of physical features which are expected to affect evaporative emissions. Each group of vehicles with similar features shall be defined as a separate evaporative emission family.

(13) For gasoline-fueled heavy-duty vehicles to be classed in the same evaporative emission family, vehicles must be identical with respect to:

(i) Method of fuel/air metering (*i.e.*, carburetion versus fuel injection).

(ii) Carburetor bowl fuel volume, within a 10 cc range.

(14) For gasoline-fueled heavy-duty vehicles to be classed in the same evaporative emission control system, vehicles must be identical with respect to:

(i) Method of vapor storage.

(ii) Method of carburetor sealing.

(iii) Method of air cleaner sealing.

(iv) Vapor storage working capacity, within a 20 gram range.

(v) Number of storage devices.

(vi) Method of purging stored vapors.

(vii) Method of venting the carburetor during both engine off and engine operation.

(viii) Liquid fuel hose material.

(ix) Vapor storage material.

(15) Where gasoline-fueled heavy-duty vehicles are types which cannot be divided into evaporative emission family-control system combinations based on the criteria listed above, the Administrator will establish evaporative emission family-control system combinations for those vehicles based on features most related to their evaporative emission characteristics.

(b) Emission data:

(1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon engine family groupings. Within each engine family, one test vehicle will be selected based on the following criteria: The Administrator shall select the vehicle with the heaviest equivalent test weight (including options) within the family. Then within that vehicle the Administrator shall select, in the order listed, the highest road-load power, largest displacement, the transmission with the highest numerical final gear ratio (including overdrive), the highest numerical axle ratio offered in that engine family and the maximum fuel flow calibration.

(ii) The Administrator shall select one additional test vehicle from within each engine family. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family. If all vehicles within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iii) Within an engine family and exhaust emission control system, the manufacturer may alter any emission-data vehicle (or other vehicles such as including current on previous model year emission-data vehicles, fuel economy data vehicles, and development vehicles provided they meet emission-data vehicles' protocol) to represent more than one selection under paragraphs (b)(1) (i), (ii), (iv), or (vii) of this section.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (i) and (ii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family.

(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with paragraphs (b)(1) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (b)(1)(v)(A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) That all light-duty vehicles not exempt under § 86.087–8(h) comply with the emission standards at high-altitude, and

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low-altitude, which are not exempt under § 86.087–9(g)(2), are capable of being modified to meet high-altitude standards.

(vi) If 90 percent or more of the engine family sales will be in California, a manufacturer may substitute emission-data vehicles selected b the California Air Resources Board criteria for the selections specified in paragraphs (b)(1) (i), (ii), and (iv) of this section.

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems.

(B) The Administrator will select the vehicle expected to exhibit the highest evaporative emission, from within each evaporative family to be certified, from among the vehicles represented by the exhaust emission-data selections for the engine family, unless evaporative testing has already been completed on the vehicle expected to exhibit the highest evaporative emissions for the evaporative family as part of another engine family's testing.

(C) If the vehicles selected in accordance with paragraph (b)(1)(vii)(B) of this section do not represent each evaporative emission control system then the Administrator will select the highest expected evaporative emission vehicle from within the unrepresented evaporative system.

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraphs (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude or

(B) In lieu of testing vehicles according to paragraph (b)(1)(viii)(A) of this section, a manufacturer may provide a statement in its application for certification that based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) That all light-duty vehicles not exempt under § 86.087–8(h) comply with the emission standards at high altitude and

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low altitude, which are not exempt under § 86.087–9(g)(2), are capable of being modified to meet high-altitude standards.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of (b)(1)(viii)(A) of this section.

(x) (Light-Duty Trucks Only) (A) The manufacturer may reconfigure any of the low-altitude emission-data vehicles to represent the vehicle configuration required to be tested at high altitude.

(B) The manfacturer is not required to test the reconfigured vehicle at low altitude.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) [Reserved]

(ii) [Reserved]

(iii) The Administrator shall select a maximum of two engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in the engine family as follows:

(A) The Administrator shall select one emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the Administrator shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advanced spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(B) The Administrator shall select one additional engine, from within each engine family. The engine selected shall be the engine expected to exhibit the highest emissions of those engines remaining in the engine family. If all engines within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iv) If the engines selected in accordance with paragraph (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(v) Within an engine family and emission control system, the manufacturer may alter any emission-data engine to represent more than one selection under paragraph (b)(2) (iii) and (iv) of this section.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to diesel heavy-duty emission-data vehicles.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine system combination shall be run for smoke emission data and gaseous and particulate emission data. Either the complete gaseous and particulate emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(iv) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with § 886.087–24(b)(3) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate, all diesel heavy-duty engines comply with the emission standards at high altitude.

(c) Durability data:

(1) *Light-duty vehicle durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, and test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator no later than 30 days following notification of the test fleet selection.

(2) *Light-duty trucks.* Paragraph (c)(2) of this section applies to vehicles, engines, subsystems, or components used to established exhaust emission deterioration factors for light-duty trucks.

(i) The manufacturer shall select the vehicles, engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether vehicles, engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use vehicles, based on good engineering judgment.

(ii) [Reserved]

(3) *Heavy-duty engines.* Paragraphs (c)(3) of this section applies to engines, subsystems, or components used to establish exhaust emission deterioration factors for heavy-duty engines.

(i) The manufacturer shall select the engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use engines, based on good engineering judgment.

(ii) [Reserved]

(d) For purposes of testing under § 86.084–26 (a)(9) or (b)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (light-duty vehicles only) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided,* that the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), which ever is greater.

(e)(1) Any manufacturer whose projected sales for the model year in which certification is sought is less than:

(i) 2,000 gasoline-fueled light-duty vehicles,or

(ii) 2,000 diesel light-duty vehicles, or

(iii) 2,000 gasoline-fueled light-duty trucks, or

(iv) 2,000 diesel light-duty trucks, or

(v) 2,000 gasoline-fueled heavy-duty engines, or

(vi) 2,000 diesel heavy-duty engines, may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(2) Any manufacturer may request to certify engine families with combined total sales of fewer than 10,000 light-duty vehicles, light-duty trucks, and heavy-duty engines utilizing assigned deterioration factors prescribed by the Administrator. The assigned deterioration factors shall be applied only to entire engine families.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.087–23 has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks, but does not apply to the production vehicles selected under paragraph (h) of this section.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3)(i) Where it is expected that more than 33 percent of a car line within an engine-system combination will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items shall actually be installed (unless excluded under paragraph (g)(3)(ii) of this section) on all emission-data and durability-data vehicles of that car line, within that engine-system combination, on which the items are intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes and other items determined by the Administrator.

(ii) If the manufacturer determines by test data or engineering evaluation that the actual installation of the optional equipment required by paragraph (g)(3)(i) of this section does not affect the emissions or fuel economy values, the optional equipment need not be installed on the test vehicle. The weight of the options shall be included in the design curb weight and also be represented in the weight of the test vehicles. The engineering evaluation, including any test data, used to support the deletion of optional equipment from test vehicles, shall be maintained by the manufacturer and shall be made available to the Administrator upon request.

(h) Alternative Durability Program durability-data vehicles. This section applies to light-duty vehicle and light-duty truck durability-data vehicles selected under the Alternative Durability Program described in § 86.085–13.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from each model year's production for those vehicles certified using the Alternative Durability Program procedures.

(i) The Administrator shall select the production durability-data vehicle designs from the designs that the manufacturer offers for sale. For each model year and for each engine family group, the Administrator may select production durability-data vehicle designs of equal number to the number of engine families within the engine family group, up to a maximum of three vehicles.

(ii) The production durability-data vehicles representing the designs selected in paragraph (h)(1)(i) of this section will be randomly selected from the manufacturer's production. The Administrator will make these random selections unless the manufacturer (with prior approval of the Administrator) elects to make the random selections.

(iii) The manufacturer may select additional production durability-data vehicle designs from within the engine family group. The production durability-data vehicles representing these designs shall be randomly selected from the manufacturer's production in accordance with paragraph (h)(1)(ii) of this section.

(iv) For each production durability-data vehicle selected under paragraph (h)(1) of this section, the manufacturer shall provide to the Administrator (before the vehicle is tested or begins service accumulation) the vehicle identification number. Before the vehicle begins service accumulation the manufacturer shall also provide the Administrator with a description of the durability-data vehicle as specified by the Administrator.

(2) If, within an existing engine family group, a manufacturer requests to certify vehicles of a new design, engine family, emission control system, or with any other durability-related design difference, the Administrator will determine if the existing engine family group deterioration factor is appropriate for the new design. If the Administrator cannot make this determination or deems the deterioration factor not appropriate, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles with the new design under the provisions of paragraph (h)(1) of this section.

(3) If a manufacturer requests to certify vehicles of a new design that the Administrator determines are a new engine family group, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles of that design under the provisions of paragraph (h)(1) of this section.

(4) In lieu of testing a production durability-data vehicle selected under paragraph (h)(1) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data from a production vehicle of the same configuration for which all applicable data has previously been submitted.

8. A new § 86.087–25 is proposed to be added to Subpart A, to read as follows:

§ 86.087–25 Maintenance.

(a) *Applicability.* This section applies to light-duty vehicles, light-duty trucks and heavy-duty engines.

(1) Maintenance performed on vehicles, engines, subsystems, or components used to determine exhaust or evaporative emission deterioration factors is classified as either emission-

related or non emission-related and each of these can be classified as either scheduled or unscheduled. Further, some emission-related maintenance is also classified as critical emission-related maintenance.

(b) This section specifies emission-related scheduled maintenance for purposes of obtaining durability data and for inclusion in maintenance instructions furnished to purchasers of new motor vehicles and new motor vehicle engines under § 86.087–38.

(1) All emission-related scheduled maintenance for purposes of obtaining durability data must occur at the same mileage intervals (or equivalent intervals if engines, subsystems, or components are used) that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle or engine under § 86.087–35. This maintenance schedule may be updated as necessary throughout the testing or the vehicle/engine provided that no maintenance operation is deleted from the maintenance schedule after the operation has been performed on the test vehicle or engine.

(2) Any emission-related maintenance which is performed on vehicles, engines, subsystems, or components must be technologically necessary to assure in-use compliance with the emission standards. The manufacturer must submit data which demonstrate to the Administrator that all of the emission-related scheduled maintenance which is to be performed is technologically necessary. Scheduled maintenance must be approved by the Administrator prior to being performed or being included in the maintenance instructions provided to purchasers under § 86.087–38. As provided below, EPA has determined that emission-related maintenance at shorter intervals than that outlined in paragraphs (b)(3) and (b)(4) of this section is not technologically necessary to ensure in-use compliance. However, the Administrator may determine that maintenance even more restrictive (*e.g.*, longer intervals) than that listed in paragraphs (b)(3) and (b)(4) of this section is also not technologically necessary.

(3) For gasoline-fueled light-duty vehicles, light-duty trucks and heavy-duty engines, emission-related maintenance in addition to, or at shorter intervals than, the following will not be accepted as technologically necessary, except as provided in paragraph (b)(7) of this section.

(i)(A) The cleaning or replacement of light-duty vehicle or light-duty truck spark plugs at 30,000 miles of use and at 30,000-mile intervals thereafter.

(B) The cleaning or replacement of gasoline-fueled heavy-duty engine spark plugs at 12,000 miles (or 360 hours) of use and at 12,000-mile (or 360-hour) intervals thereafter, for engine certified for use with leaded fuel.

(C) The cleaning or replacement of gasoline-fueled heavy-duty engine spark plugs at 25,000 miles (or 750 hours) of use and at 25,000-mile intervals (or 750-hour) intervals thereafter, for engines certified for use with unleaded fuel only.

(ii) The adjustment, cleaning, repair, or replacement of the following at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter:

(A) Positive crankcase ventilation valve.

(B) Emission-related hoses and tubes.

(C) Ignition wires

(D) Idle mixture.

(iii) The adjustment, cleaning, repair, or replacement of the following at 100,000 miles of use and at 100,000-mile intervals thereafter:

(A) Catalytic converter.

(B) Air injection system components.

(C) Fuel injectors.

(D) Electronic engine control unit and its associated sensors (including oxygen sensor) and actuators.

(E) Evaporative emission canister.

(F) Turbochargers.

(G) Carburetors.

(iv)(A) For gasoline-fueled heavy-duty engines certified for use with leaded fuel, the servicing of the exhaust gas recirculation (EGR) system (including all related filters and control valves) at 24,000 miles (or 720 hours) of use and at 24,000-mile (or 720-hour) intervals thereafter.

(B) For gasoline-fueled light-duty vehicles, light-duty trucks, and for heavy-duty engines certified for use with unleaded fuel only, the servicing of the EGR system (including all related filters and control valves) at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter.

(4) For diesel powered light-duty vehicles, light-duty trucks, and heavy-duty engines, emission-related maintenance in addition to, or at shorter intervals than, the following will not be accepted as technologically necessary, except as provided in paragraph (b)(7) of this section.

(i) The following maintenance at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter:

(A) Cleaning or replacement of the exhaust gas recirculation system (including all related filters and control valves) and positive crankcase ventilation valves.

(B) Cleaning of fuel injectors.

(ii) The following maintenance at 100,000 miles (or 3,000 hours) of use and at 100,000-mile (or 3,000-hour) intervals thereafter for light-duty vehicles, light-duty trucks, and light heavy-duty engines, or at 150,000 miles (or 4,500 hours) of use and at 150,000-mile (or 4,500-hour) intervals thereafter for medium and heavy heavy-duty engines: The adjustment, cleaning, repair, or replacement of

(A) The turbocharger and fuel injectors,

(B) The electronic engine control unit and its associated sensors and actuators, and

(C) The particulate trap or trap-oxidizer system (including related components).

(5) [Reserved]

(6)(i) The following components are currently defined as critical emission-related components:

(A) Catalytic converter.

(B) Air injection system components.

(C) Electronic engine control unit and its associated sensors (including oxygen sensor if installed) and actuators.

(D) Exhaust gas recirculation system (including all related filters and control valves).

(E) Positive crankcase ventilation valve.

(F) Evaporative emission system (excluding canister air filter).

(G) Particulate trap or trap-oxidizer system.

(ii) All critical emission-related scheduled maintenance must have a reasonable likelihood of being performed in-use. The manufacturer shall be required to show the reasonable likelihood of such maintenance being performed in-use, and such showing shall be made prior to the performance of the maintenance on the durability data vehicle. Critical emission-related scheduled maintenance items which satisfy one of the following conditions will be accepted as having a reasonable likelihood of having the maintenance item performed in-use:

(A) Data are presented which establish for the Administrator a connection between emissions and vehicle performance such that as emissions increase due to lack of maintenance, vehicle performance will simultaneously deteriorate to a point unacceptable for typical driving.

(B) Survey data are submitted which adequately demonstrate to the Administrator that, at an 80 percent confidence level, 80 percent of such engines already have this critical maintenance item performed in-use at the recommended interval(s).

(C) A clearly displayed visible signal system approved by the Administrator alerts the vehicle driver that maintenance is due. An initial signal bearing the message "maintenance needed" or "check engine" or a similar message approved by the Administrator shall be actuated at the appropriate mileage point or by component failure. If the required maintenance has not been performed within 1,000 miles of actuation of the initial signal, a second signal shall be actuated bearing the message "maintenance required." This signal shall not replace the initial signal, but shall be in addition to that signal. Both signals must be continuous while the engine is in operation, and not be easily eliminated without performance of the required maintenance. Resetting the signal shall be a required step in the maintenance operation. The method for resetting the signal system shall be approved by the Administrator.

(D) A manufacturer may desire to demonstrate through a survey that a critical maintenance item is likely to be performed without a visible signal on a maintenance item for which there is no prior in-use experience without the signal. To that end, the manufacturer may in a given model year market up to 200 randomly selected vehicles per critical emission related maintenance item without such visible signals, and monitor the performance of the critical maintenance item by the owners to show compliance with paragraph (b)(6)(ii)(B) of this section. This option is restricted to two consecutive model years and may not be repeated until any previous survey has been completed. If the critical maintenance involves more than one engine family, the sample will be sales weighted to ensure that it is representative of all the families in question.

(E) The manufacturer provides the maintenance free of charge, and clearly informs the customer that the maintenance is free in the instructions provided under § 86.087–38.

(F) Any other method which the Administrator approves as establishing a reasonable likelihood that the critical maintenance will be performed in-use.

(iii) Visible signal systems used under paragraph (b)(6)(ii)(C) of this section are considered an element of design of the emission control system. Therefore, disabling, resetting, or otherwise rendering such signals inoperative without also performing the indicated maintenance procedure is a prohibited act under section 203(a)(3) of the Clean Air Act, as amended in August 1977 (42 U.S.C. 7522(a)(3)).

(7) Changes to scheduled maintenance.

(i) For maintenance practices that existed prior to the 1980 model year, only the maintenance items listed in paragraphs (b)(3) and (b)(4) of this section are currently considered by EPA to be emission-related. The Administrator may, however, determine additional scheduled maintenance items that existed prior to the 1980 model year to be emission-related by announcement in a **Federal Register** Notice. In no event may this notification occur later than September 1 of the calendar year two years prior to the affected model year.

(ii) In the case of any new scheduled maintenance, the manufacturer must submit a request for approval to the Administrator for any maintenance that it wishes to recommend to purchasers and perform during durability determination. New scheduled maintenance is that maintenance which did not exist prior to the 1980 model year, including that which is a direct result of the implementation of new technology not found in production prior to the 1980 model year. The manufacturer must also include its recommendations as to the category (*i.e.*, emission-related or non-emission-related, critical or non-critical) of the subject maintenance and, for suggested emission-related maintenance, the maximum feasible maintenance interval. Such requests must include detailed evidence supporting the need for the maintenance requested, and supporting data or other substantiation for the recommended maintenance category and for the interval suggested for emission-related maintenance. Requests for new scheduled maintenance must be approved prior to the introduction of the new maintenance. The Administrator will then designate the maintenance as emission-related or non-emission-related. For maintenance items established as emission-related, the Administrator will further designate the maintenance as critical if the component which receives the maintenance is a critical component under paragraph (b)(6) of this section. For each maintenance item designated as emission-related, the Administrator will also establish a technologically necessary maintenance interval, based on industry data and any other information available to EPA. Designations of emission-related maintenance items, along with their identification as critical or non-critical, and establishment of technologically necessary maintenance intervals, will be announced in the **Federal Register**.

(iii) Any manufacturer may request a hearing on the Administrator's determinations in paragraph (b)(7) of this section. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(c) Non-emission-related scheduled maintenance which is reasonable and technologically necessary (*i.e.*, oil change, oil filter change, fuel filter change, air filter change, cooling system maintenance, adjustment of idle speed, governor, engine bolt torque, valve lash, injector lash, timing, etc.) may be performed on durability-data vehicles at the intervals recommended by the manufacturer to the ultimate purchaser.

(d) Unscheduled maintenance on light-duty durability data vehicles.

(1) Unscheduled maintenance may be performed during the testing used to determine deterioration factors, except as provided in paragraph (d)(2) and (d)(3) of this section, only under the following provisions:

(i) A fuel injector or spark plug may be changed if a persistent misfire is detected.

(ii) Readjustment of a gasoline-fueled vehicle cold-start enrichment system may be performed if there is a problem of stalling.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (c) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 rpm or more, or if there is a problem of stalling.

(2) Any other unscheduled vehicle, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement during testing to determine deterioration factors shall be performed only with the advance approval of the Administrator. Such approval will be given if the Administrator:

(i) Has made a preliminary determination that the part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle or engine unrepresentative of vehicles or engines in-use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and,

(ii) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss. The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle/engine malfunction (*e.g.*, misfiring, stalling, black smoke), or an activation of an audible and/or visible signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(3) Emission measurement may not be used as a means of determining the need for unscheduled maintenance under paragraph (d)(2) of this section, except under the following conditions:

(i) The Administrator may approve unscheduled maintenance on durability-data vehicles based upon a significant change in emission levels that indicates a vehicle or engine malfunction. In these cases the Administrator may first approve specific diagnostic procedures to identify the source of the problem. The Administrator may further approve of specific corrections to the problem after the problem has been identified. The Administrator may only approve the corrective action after it is determined that:

(A) The malfunction was caused by nonproduction build practices or by a previously undetected design problem,

(B) The malfunction will not occur in production vehicles or engines in-use, *and*

(C) The deterioration factor generated by the durability-data vehicle or engine will remain unaffected by the malfunction or by the corrective action (*e.g.*, the malfunction was present for only a short period of time before detection, replacement parts are functionally representative of the proper mileage or hours, etc.).

(ii) Following any unscheduled maintenance approved under paragraph (d)(3)(i) of this section, the manufacturer shall perform an after-maintenance emissions test. If the Administrator determines that the after-maintenance emission levels for any pollutant indicates that the deterioration factor is no longer representative of production, the Administrator may disqualify the durability-data vehicle or engine.

(4) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle/engine unrepresentative of vehicles in-use, the vehicle/engine shall not be used for determining deterioration factors.

(5) Repairs to vehicle components of a durability data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(e) Maintenance on emission data vehicles and engines.

(1) Adjustment of engine idle speed on emission data vehicles may be performed once before the low-mileage/low-hour emission test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission data vehicles shall be performed only with the advance approval of the Administrator.

(2) Maintenance on light-duty truck emission-data vehicles selected under § 86.085–24(b)(1)(v) or (b)(1)(viii) and permitted to be tested for purposes of § 86.087–23(c)(1)(ii) under the provisions of § 86.087–24(b)(2) may be performed in conjunction with emission control system modifications at the low-mileage test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.087–38.

(3) Maintenance on those light-duty truck emission-data vehicles selected under § 86.087–24(b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than that intended by the original design, may be performed in conjunction with the emission control system modifications at the low-mileage test point, and shall be approved in advance by the Administrator.

(4) Repairs to vehicle components of an emission data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(f) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and:

(1) Are used in conjunction with scheduled maintenance on such components, or

(2) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (d)(2) of this section for durability data vehicles or in paragraph (e)(1) of this section for emission-data vehicles, or

(3) Unless specifically authroized by the Administrator.

(g)(1) Paragraph (g) of this section applies to light-duty vehicles.

(2) Complete emission tests (see §§ 86.106 through 86.145) are required, unless waived by the Administrator, before and after scheduled maintenance approved for durability data vehicles. The manufacturer may perform emission tests before unscheduled maintenance. Complete emission tests are required after unscheduled maintenance which may reaonsably be expected to affect emissions. The Administrator may waive the requirement to test after unscheduled maintenance. These test data may be submitted weekly to the Administrator, but shall be air posted or delivered within 7 days after completion of the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered to the Administrator concurrently with the manufacturer's application for certification.

(h) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.087–23.

9. Section 86.087–28 of Subpart A is proposed to be amended by revising paragraphs (b)(4)(ii) and (b)(6)(ii)(C) introductory text, to read as follows:

§ 86.087–28 Compliance with emission standards.

* * * * *

(b) * * *

(4) * * *

(ii) Separate exhaust emission deterioration factors, determined by tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. Separate factors shall be established for transient HC, CO, and NO_x, idle CO (gasoline vehicles only), and exhaust particulate (diesel vehicles only).

* * * * *

(6) * * *

(ii) * * *

(C) *Line crossing.* For the purposes of paragraph (b)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 120,000-mile points of the best fit straight line exceed the applicable emission standard and at least one applicable data point exceeds the standard.

* * * * *

10. A new § 86.087–38 is proposed to be added to Subpart A, to read as follows:

§ 86.087–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in § 86.087–8, § 86.087–9, § 86.087–10, or § 86.087–11, as applicable, written instructions for the proper maintenance and use of the vehicle (or engine) by the purchaser consistent with the provisions of § 86.087–25.

(1) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(2) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(b) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.087–25(b) and § 86.087–25(c).

(c) Scheduled emission-related maintenance in addition to that performed under § 86.087–25(b) may only be recommended to offset the effects of abnormal in-use operating conditions. The manufacturer shall be required to demonstrate that such maintenance is reasonable and technologically necessary. Such additional recommended maintenance shall be clearly differentiated, in a form approved by the Administrator, from that approved under § 86.087–25(b). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combinations of each.

(d) Inspections of emission-related parts or systems with instructions to replace, repair, clean, or adjust the parts or systems if necessary, are not considered to be items of scheduled maintenance which insure the proper functioning of the emission control system. Such inspections may be included in the written instructions furnished to vehicle owners under paragraph (a) of this section: *Provided*, that such instructions clearly state that the owner need not perform such inspections in order to take advantage of emission warranties and recalls.

(e) If the vehicle has been granted an alternative useful-life period under the provisions of § 86.087–21(f) the manufacturer may choose to include in such instructions an explanation of the distinction between the alternative useful life specified on the label, and the emissions defect and emissions performance warranty period. The explanation must clearly state that the useful life period specified on the label represents the average period of use up to retirement or rebuild for the engine family used in the vehicle. An explanation of how the actual useful lives of engines used in various applications are expected to differ from the average useful life may be included. The explanation(s) shall be in clear, nontechnical language that is understandable to the ultimate purchaser.

(f) If allowed, such instructions shall indicate what adjustments or modifications, if any, are necessary to allow the vehicle to meet applicable emission standards at elevations above 4,000 feet, or at elevations of 4,000 feet or less.

11. A new § 86.090–2 is proposed to be added to Subpart A, to read as follows:

§ 86.090–2 Definitions.

The definitions of § 86.087–2 remain effective. The definitions listed in this section apply beginning with the 1990 model year.

"Weighted particulate emission level for a manufacturer who elects to participate in the heavy-duty diesel engine particulate averaging program" means a weighted average of the manufacturer's family particulate limits within the subclass (light, medium, or heavy) being averaged, to account for differences in production volume and rated BHP. It is calculated at the end of the model year for determining compliance with the standard by summing, for all engine families in the subclass being averaged, the products per engine family of production volume, BHP rating, and family particulate emission level, and dividing by the sum for these engine families of the products per engine family of production volume and BHP rating. Expressed mathematically the calculation is as follows:

$$WPL = \frac{\sum_{i=1}^{n} (P_i \times HP_i \times FEL_i)}{\sum_{i=1}^{n} (P_i \times HP_i)}$$

Where:

WPL = the weighted particulate emission level of the family particulate limits for all the manufacturer's engine families included in the averaging program.

n = the number of engine families included in the subclass (light, medium, or heavy) being averaged.

P = the manufacturer's production of a given engine family during the model year.

HP = the production weighted horsepower rating for that engine family, in brake horsepower.

FEL = the family particulate emission limit for that engine family, in grams per brake horsepower-hour.

Those vehicles produced for sale in California or at high altitude shall each be averaged separately from those produced for sale in any other area. Engines for use in urban buses shall be excluded from participation in any averaging program.

"Weighted particulate emission level for light-duty vehicles and light-duty trucks" means the manufacturer's production-weighted average particulate emission level, for certification purposes, of all diesel engine families in a class included in the particulate averaging program. It is calculated at the end of the model year by multiplying each family particulate emission limit by its respective production, summing these terms, and dividing the sum by the total production of the affected families. Those vehicles produced for sale in California or at high altitude shall each be averaged separately from those produced for sale in any other area.

"Urban bus" means a heavy-duty diesel-powered passenger-carrying vehicle with a load capacity of fifteen or more passengers and intended primarily for intra-city operation, *i.e.*, within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-opening entrance and exit doors would normally be installed. Since fares are usually paid in cash or tokens rather than purchased in advance in the form of tickets, urban buses would normally have equipment installed for collection of fares. Urban buses are also typically characterized by the absense of equipment and facilities for long distance travel, *e.g.*, rest rooms, large luggage compartments, and facilities for stowing carry-on luggage.

12. A new § 86.090–10 is proposed to be added to Subpart A, to read as follows:

§ 86.090–10 Emission standards for 1990 and later model year gasoline-fueled heavy-duty engines and vehicles.

(a)(1) Exhaust emissions from new 1990 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) For engines intended for use in all vehicles except as provided in paragraph (a)(3) of this section,

(A) *Hydrocarbons.* 1.1 grams per brake horsepower-hour, as measured under transient operating conditions.

(B) *Carbon monoxide.* (*1*) 14.4 grams per brake horsepower-hour, as measured under transient operating conditions.

(*2*) *Gasoline-fueled heavy-duty engines utilizing aftertreatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) *Oxides of nitrogen.* 4.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) For engines intended for use only in vehicles with a Gross Vehicle Weight Rating of greater than 14,00 pounds,

(A) *Hydrocarbons.* 1.9 grams per brake horsepower-hour, as measured under transient operating conditions.

(B) *Carbon Monoxide.* (*1*) 37.1 grams per brake hoursepower-hour, as measured under transient operating conditions.

(*2*) *Gasoline-fueled heavy-duty engines utilizing aftertreatment technology. 0.50 percent of exhaust gas flow at curb idle.*

(C) *Oxides of nitrogen.* 4.0 grams per brake hoursepower-hour, as measured under transient operating conditions.

(2) the standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(1) of Appendix I to this part, and measured and calculated in accordance with the procedures set forth in Subparts N or P.

(3)(i) A manufacturer may certify one or more gasoline-fueled heavy-duty engine configurations intended for use in all vehicles to the emission standards set forth in paragraph (a)(1)(ii) of this section: *Provided,* that the total model year sales of such configuration(s) being certified to the emission standards in paragraph (a)(1)(ii) of this section represent no more than 5 percent of total model year sales of all gasoline-fueled heavy-duty engines intended for use in vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds by the manufacturer.

(ii) The configurations certified to the emission standards of paragraph (a)(1)(ii) of this section under the provisions of paragraph (a)(3)(i) of this section shall still be required to meet the evaporative emission standards set forth in paragraphs (b)(1)(i)(A) and (b)(2)(i) of this section.

(b)(1) Evaporative emissions from 1990 and later model year gasoline-fueled heavy-duty vehicles shall not exceed:

(i) *Hydrocarbons.* (A) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds, 3.0 grams per test.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds, 4.0 grams per test.

(2)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(1)(i) of this section refer to a composite sample of fuel evaporative emissions collected under the conditions set forth in Subpart M and measured in accordance with those procedures.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, the standard set forth in paragraph (b)(1)(i)(B) of this section refers to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.090–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1990 or later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in Section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts N or P of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

13. A new § 86.090–11 is proposed to be added to Subpart A, to read as follows:

§ 86.090–11 Emission standards for 1990 and later model year diesel heavy-duty engines.

(a)(1) Exhaust emissions from new 1990 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* 15.5 grams per brake horsepower-hour, as measured under transient operating conditions.

(iii) *Oxides of nitrogen.* 4.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(iv) *Particulate emissions.* (A) For engines to be used in urban buses, 0.10 grams per BHP-hr, as measured under transient operating conditions. Engines for use in urban buses may not participate in the heavy-duty particulate averaging program.

(B) For all other engines, 0.25 grams per brake horsepower-hour, as measured under transient operating conditions. A manufacturer may elect to include all or some of its heavy-duty diesel engine families, exclusive of engines to be used in uran buses, in the heavy-duty particulate averaging program, provided that engines produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. Averaging will be limited to engines within a given primary service class as defined in § 86.085–2. Averaging across primary service classes is not permitted. If the manufacturer elects to practicipate in the averaging program, individual family particulate limits may not exceed 0.60 grams per brake horsepower-hour.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over operating schedules as set forth in paragraph (f)(2) of Appendix I of this part, and measured and calculated in accordance with the procedures set forth in Subpart N of this part, except as noted in § 86.090–23(c)(2)(i) and (iii).

(b)(1) The opacity of smoke emission from new 1990 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1990 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

(d)(1) Model year 1990 and later heavy-duty diesel engines sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i) *Particulate emissions.* 0.30 grams per brake-horsepower-hour, as measured under transient operating conditions.

(e) Except as provided in § 86.087–24(b)(3)(iv)(A), every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart I or N of this part

to ascertain that such test engines meet the requirements of paragraphs (a), (b), (c) and (d) of this section.

14. A new § 86.090–21 is proposed to be added to Subpart A, to read as follows:

§ 86–090–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards (or family particulate emission limits, as appropriate) and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1)(i) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(ii)(A) The manufacturer shall provide to the Administrator in the preliminary application for certification:

(*1*) A list of those parameters which are physically capable of being adjusted (including those adjustable parameters for which access is difficult) and that, if adjusted to settings other than the manufacturer's recommended setting, may affect emissions;

(*2*) A specification of the manufacturer's intended physically adjustable range of each such parameter, and the production tolerances of the limits or stops used to establish the physically adjustable range;

(*3*) A description of the limits or stops used to establish the manufacturer's intended physically adjustable range of each adjustable parameter, or any other means used to inhibit adjustment;

(*4*) The nominal or recommended setting, and the associated production tolerances, for each such parameter.

(B) The manufacturer may provide, in the preliminary application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are expected to be effective in preventing adjustment of parameters on in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

(C) The Administrator may require to be provided detailed drawings and descriptions of the various emission related components, and/or hardware samples of such components, for the purpose of making his determination of which vehicle or engine parameter will be subject to adjustment for new certification and Selective Enforcement Audit testing and of the physically adjustable range for each such vehicle or engine parameter.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested. The sales data shall also include the altitude of intended sale for light-duty trucks.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) For light-duty vehicles and light-duty trucks, a description of the test procedures to be used to establish the evaporative emission deterioration factors requried to be determined and supplied in § 86.090–23(b)(2).

(ii) For gasoline-fueled heavy-duty vehicles, the Administrator does not assume that each evaporative emission family-evaporative emission control system combination will deteriorate in a unique manner during the useful life of the vehicle. The manufacturer shall therefore identify those evaporative emission deterioration factors which shall be applied to the various evaporative emission family-evaporative emission control system combinations which are expected to exhibit similar deterioration characteristics during the useful life of the vehicle.

(iii)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.090–23 (b)(1).

(B)(*1*) For engine families provided an alternative useful life period under paragraph (f) of this section, a statement of that alternative period and a brief synopsis of the justification.

(*2*) For heavy-duty diesel engine families, a statement of the primary intended service class (light, medium, or heavy) and an explanation as to why that service class was selected. Each diesel engine family shall be certified under one primary intended service class only. After reviewing the guidance in § 86.085–2, the class shall be determined on the basis of which class best represents the majority of the sales of that engine family.

(C)(*1*) For each light-duty truck engine family and each heavy-duty engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(*2*) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

(D) At the option of the manufacturer, the proposed composition of the emission-data test fleet or (where applicable) the durability-data test fleet.

(5)(i)(A) If the manufacturer elects to participate in the particulate averaging program for diesel light-duty vehicles and/or diesel light-duty trucks, the application must list the family particulate emission limit and the projected U.S. production volume of the family for the model year.

(B) If the manufacturer elects to participate in the particulate averaging program for heavy-duty diesel engines, the application must list the family particulate emission limit, the rated brake horsepower for each differing horsepower configuration, the engine subclass as defined in § 86.085–2, and the projected U.S. production of each horsepower configuration for the model year.

(B) If the manufacturer elects to participate in the particulate averaging program for heavy-duty diesel engines, the application must list the family particulate emission limit, the rated brake horsepower for each differing horsepower configuration, the engine subclass as defined in § 86.085–2, and the projected U.S. production of each horsepower configuration for the model year.

(C) The manufacturer shall choose the level of the family particulate emission limits, accurate to one one-hundredth (0.01) of a gram per mile.

(D) The manufacturer may at any time during production elect to change the level of any family diesel particulate emission limit(s) by submitting the new limit(s) to the Administrator and by demonstrating compliance with the limit(s) as described in § 86.090–2 and § 86.090–28(b)(5).

(6) For gasoline-fueled heavy-duty engines, the application must state whether the engine family is being certified for use in all vehicles regardless of their Gross Vehicle Weight Rating (see § 86.090–10 (a)(1)(i) and (a)(3)(i)), or, only for use in vehicles with a Gross Vehicle Weight Rating greater than 14,000 pounds.

(ii) If the engine family is being certified for use in all vehicles, and is being certified to the emission standards applicable to gasoline-fueled heavy-duty engines for use only in vehicles with a Gross Vehicle Weight Rating over 14,000 pounds udner the provisions of § 86.090–10(a)(3), then the application must also attest that the engine family, together with all other engine families being certified under the provisions of § 86.090–10(a)(3), represent no more than 5 percent of model year sales of the manufacturer of all gasoline-fueled heavy-duty engines for use in vehicles with Gross Vehicle Weight Ratings of up to 14,000 pounds.

(iii)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.090–23(b)(1)

(B)(*1*) A statement of the useful life of use of each light-duty truck engine family and heavy-duty engine family.

(*2*) For engine families provided an alternative useful life period under paragraph (f) of this section, a statement of that alternative period and a brief synopsis of the justification.

(*3*) For heavy-duty diesel engine families, a statement of the primary intended service class (light, medium, or heavy) and an explanation as to why that service class was selected. Each diesel engine family shall be certified under one primary intended service class only. After reviewing the guidance in § 86.085–2, the class shall be determined on the basis of which class best represents the majority of the sales of that engine family.

(C)(*1*) For each light-duty truck engine family and each heavy-duty engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations while being operated at any altitude locations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(*2*) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations, and a statement of the altitude at which the adjustments of modifications apply.

(D) At the option of the manufacturer, the proposed composition of the emission-data test fleet or (where applicable) the durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under § 86.079–32, § 86.079–33, and § 86.082–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

(e) For gasoline-fueled heavy-duty vehicles, the manufacturer shall specify a maximum nominal fuel tank capacity for each evaporative emission family-evaporative emission control system combination.

(f) Light-duty truck and heavy-duty engine manufacturers who believe that the useful life periods of § 86.085–2 are significantly unrepresentative for one or more engine families (either too long or too short), may petition the Administrator to provide an alternative useful-life period. This petition must include the full rationale behind the request together with any supporting data and other evidence. Based on this or other information the Administrator may assign an alternative useful-life period. Any petition should be submitted in a timely manner, to allow adequate time for a thorough evaluation.

15. A new § 86.090–23 is proposed to be added to Subpart A, to read as follows:

§ 86.090–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however,* that if requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicle (or engine) for which emission data are available or will be made available under the provisions of § 86.090–29.

(b)(1)(i) Exhaust emission durability data on such light-duty vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines and all test data that are derived from the testing described under § 86.090–21(b)(4)(iii)(A) as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.090–30 will meet the emission standards (or family particulate emission limits, as appropriate) in § 86.087–9, § 86.090–10, or § 86.090–11 as appropriate, in actual use for the useful life of the engine.

(2) For light-duty vehicles and light-duty trucks, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination, and all test data that are derived from testing described under §86.090–21 (b)(4)(i), designed and conducted in accordance with good engineering practice, to assure that the vehicles covered by a certificate issued under § 86.090–30 will meet the evaporative emission standards in § 86.087–8 or § 86.087–9, as appropriate, for the useful life of the vehicle.

(3) For gasoline-fueled heavy-duty vehicles, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination identified in accordance with § 86.090–21(b)(4)(ii). Furthermore, a statement that the test procedure(s) used to derive the deterioration factors includes, but need not be limited to, a consideration of the ambient effects of ozone and temperature fluctuations, and the service accumulation effects of vibration, time, and vapor saturation and purge cycling. The deterioration factor test procedure shall be designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.090–30 will meet the evaporative emission standards in § 86.090–10 in actual use for the useful life of the engine. Furthermore, a statement that a description of the test procedure, as well as all data, analyses and evaluations, is available to the Administrator upon request.

(4) (i) For gasoline-fueled heavy-duty vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's vehicles meet the standards of § 86.090–10 as determined by the provisions of § 86.090–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents on which the above statement is based are available to the Administrator upon request.

(ii) For gasoline-fueled heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's evaporative emission control systems are designed, using good engineering practice, to meet the standards of § 86.090–10 as determined by the provisions of § 86.090–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents on which the above statement is based are available to the Administrator upon request.

(c) Emission data.

(1)(i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.084–26(a)(3) (i) or (ii).

(ii) [Reserved]

(2) *Certification engines.* (i) Emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if generated, and emission data generated for certification as required under § 86.084–26(b)(5). In lieu of providing emission data on CO emissions from diesel certification engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the CO emission standard of § 86.090–11.

(ii) For heavy-duty diesel engines, a manufacturer may submit hot-start data only, in accordance with Subpart N, when making application for certification. However, for conformity SEA and recall testing by the Agency, both the cold-start and hot-start test data, as specified in Subpart N, will be included in the official results.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b), and the data derived from such tests, are available to the Administrator upon request.

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with the applicable standards (or family particulate emission limits, as appropriate) of this subpart are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification, and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be indentified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicles (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards (or family particulate emission limits, as appropriate). The provisions of § 86.090–30(b) shall then be followed.

(2) For evaporative emission durability, or light-duty truck or heavy-duty engine exhaust emission durability, a statement of compliance with paragraph (b)(1)(ii), (b)(2), or (b)(3) of this section, as applicable.

(f) Additionally, manufacturers participating in one or both of the diesel particulate averaging programs shall submit:

(1) In the application for certification, a statement that the vehicles or engines for which certification is requested will not, to the best of the manufacturer's belief, when included in the manufacturer's weighted particulate average emission level(s), cause the applicable particulate standard(s) to be exceeded.

(2) No longer than 90 days after the end of a given model year of production of engine families included in the diesel particulate averaging program(s), the number of vehicles or engines produced in each engine family (and horsepower configuration for heavy-duty diesel engines) at each certified family diesel particulate emission limit, their subclass and rated brake horsepower (heavy-duty diesel engines only), and the manufacturers' resulting weighted particulate emission level(s).

16. A new § 86.090–28 is proposed to be added to Subpart A, to read as follows:

§ 86.090–28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles.

(2) The applicable exhaust and fuel evaporative emission standards (and family particulate emission limits, as appropriate) of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards (or family particulate emission limit, as appropriate).

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards (or family particulate emission limit, as appropriate) is as follows, except where specified by paragraph (a)(7) of this section for the Alternative Durability Program:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, exhaust NO_x, and exhaust particulate (diesel vehicles only) for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer (gasoline-fueled vehicles only).

(A) The applicable results to be used, unless excluded by paragraph (a)(4)(i)(A)(*4*) of this section, in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(*1*) All valid exhaust emission data from the tests required under § 86.084–26(a)(4) except the zero-mile tests. This shall include the official test results, as determined in § 86.090–29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.085–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.085–24(c)(1)(ii)).

(*2*) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.087–25.

(*3*) All exhaust emission data from tests required by maintenance approved under § 86.087–25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such

data in the deterioration factor calculation.

(4) The manufacturer has the option of applying an outlier test point procedure to completed durability data within its certification testing program for a given model year. The outlier procedure will be specified by the Administrator. For any pollutant, durability-data test points that are identified as outliers shall not be included in the determination of deterioration factors if the manufacturer has elected this option. The manufacturer shall specify to the Administrator before the certification of the first engine family for that model year, if it intends to use the outlier procedure. The manufacturer may not change procedures after the first engine family of the model year is certified. Where the manufacturer chooses to apply both the outlier procedure and averaging (as allowed under §86.084–26(b)(8)(ii)) to the same data set, the outliner procedure shall be completed prior to applying the averaging procedure.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The data will be acceptable for use in the calculation of the deterioration factor only if the interpolated 4,000-mile and 50,000-mile points on this line are within the low-altitude standards provided in § 86.087–8 or § 86.087–9, as applicable. Exceptions to this where data are still acceptable are when a best fit straight line crosses an applicable standard but no data points exceeded the standard, or the best fit straight line crosses and applicable standard with a negative slope (the 4,000-mile interpolated point is higher than the 50,000-mile interpolated point) but the 50,000-mile actual data point is below the standard. An multiplicative exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor=Exhaust emissions interpolated to 50,000 miles divided by exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(C) An evaporative emissions deterioration factor (gasoline-fueled vehicles only) shall be determined from the testing conducted as described in § 86.090–21(b)(4)(i), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor=Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A) The official exhaust emission test results for each emission-data evehicle at the selected test point shall be multiplied by the appropriate deterioration factor: *Provided*, that if a deterioration factor as computed in pargaraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results (gasoline-fueled vehicles only) for each evaporative emission-data vehicle at the selected test point shall be adjusted by addition of the appropriate deterioration factor: *Provided*, that if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard (or the family particulate emission limit, as appropriate) shall be the adjusted emissions or paragraphs (a)(4)(ii)(A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard (or the family particulate emission limit, as appropriate), it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard (or the family particulate emission limit, as appropriate).

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards (or the family particulate emission limit, as appropriate), as determined in paragrah (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (a)(4)(iii) of this section before any vehicle in that family may be certified.

(5) If a manufacturer chooses to change the level of any family particulate emission limit(s) in the particulate averaging program, compliance with the new limit(s) must be based upon existing certification data.

(6) If a manufacturer chooses to participate in the diesel particulate averaging program, the production-weighted average of the family particulate emission limits of all affected engine families must comply with the pariculate standards in § 86.087–8(a)(1)(iv) or § 86.087–9(a)(1)(iv), as appropriate, at the end of the production year.

(7) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraphs (a)(4)(iii) through (a)(4)(v) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (a)(4) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust, HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragarph (a)(4) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.087–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicles selected under § 86.087–24(h), all applicable exhaust emissions results shall be plotted as a function of the mileage on the system rounded to the

nearest mile, and the best fit straight lines, fitted by method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicles shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) *Line crossing.* For the purposes of paragraph (a)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.087–24(c), § 86.087–24 (h)(2), or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.087–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standards. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standards, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

(b)(1) Paragraph (b) of this section applies to light-duty trucks.

(2) The exhaust and fuel evaporative emission standards (and the family particulate emission limits, as appropriate) of § 86.087–9 apply to the emissions of vehicles for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle, deterioration factors will be used in combination with emission-data vehicle test results as the basis for determining compliance with the standards (or the family particulate emission limit, as appropriate).

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards (or the family particulate emission limit, as appropriate), based on deterioration factors supplied by the manufacturers, except where specified by paragraph (b)(5) of this section for the Alternative Durability Program.

(ii) Separate exhaust emission deterioration factors, determined from tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. Separate factors shall be established for transient HC, CO, and NO_x, idle CO (gasoline vehicles only), and exhaust particulate (diesel vehicles only).

(iii) For transient HC, CO, and NO_x, idle CO (gasoline vehicles only), and exhaust particulate (diesel vehicles only), the official exhaust emission results for each emission-data vehicle at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(iv) The emission values to compare with the standards (or family particulate emission limit, as appropriate) shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission data vehicle.

(5)(i) Paragraph (b)(5) of this section applies only to manufacturers which elect to participate in the particulate averaging program.

(ii) If a manufacturer chooses to change the level of any family particulate emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(iii) The weighted particulate emission level of the family particulate emission limits of all applicable engine families rounded to two significant figures in accordance with ASTM E 29–67 must comply with the particulate standards in § 86.087–8(a)(1)(iv) or § 86.087–9(a)(1)(iv), as appropriate, at the end of the product year.

(6) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraph (b)(4)(iv), (b)(7)(iv) and (b)(8) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (b)(7) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (b)(6) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.087–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculations of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicle selected under § 86.087–24(h), all applicable exhaust emission results shall be plotted as a function of the mileage on the system rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicle shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) *Line crossing.* For the purposes of paragraph (b)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 120,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(*1*) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.087–24(c)(1), or § 86.087–24 (h)(2) or (h)(3).

(*2*) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.087–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standard. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standard, the manufacturer may, with

the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be accpetable if line crossing occurs.

(7)(i) Paragraph (b)(7) of this section describes the procedure for determining compliance of a new vehicle with fuel evaporative emission standards. The procedure described here shall be used for all vehicles in all model years.

(ii) The manufacturer shall determine, based on testing described in § 86.090–21(b)(4)(i), and supply an evaporative emission deterioration factor for each evaporative emission family-evaporative emission control system combination. The factor shall be calculated by subtracting the emission level at the selected test point from the emission level at the useful life point.

(iii) The official evaporative emission test results for each evaporative emission-data vehicle at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission value to compare with the standards shall be the adjusted emission value of paragraph (b)(7)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each evaporative emission-data vehicle.

(8) Every test vehicle of an engine family must comply with all applicable standards (and the family particulate emission limits, as appropriate), as determined in paragraphs (b)(4)(iv) and (b)(7)(iv) of this section, before any vehicle in that family will be certified.

(c)(1) Paragraph (c) of this section applies to heavy-duty engines.

(2) The exhaust emission standards (and the family particulate emission limits, as appropriate) for gasoline-fueled engines in § 86.090–10 or for diesel engines in § 86.090–11 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of service on the engine, deterioration factors will be used in combination with emission-data engine test results as the basis for determining compliance with the standards.

(4)(i) Paragraph (c)(4) fo this section describes the procedure for determining compliance of an engine with emission standards (or the family particulate emission limit, as appropriate), based on deterioration factors supplied by the manufacturer.

(ii) Separate exhaust emission deterioration factors, determined from tests of engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. For gasoline and diesel engines, separate factors shall be established for transient HC, CO, NO_x and exhaust particulate (diesel engines only). For diesel smoke testing, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and peak opacity (designated as "C").

(iii)(A) Paragraph (c)(4)(iii)(A) of this section applies to gasoline-fueled heavy-duty engines.

(*1*) *Gasoline-fueled heavy-duty engines not tilizing aftertreatment technology (e.g., catalytic converters).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(*2*) *Gasoline-fueled heavy-duty engines utilizing aftertreatment technology (e.g., catalytic converters).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) Paragraph (c)(4)(iii)(B) of this section applies to diesel heavy-duty engines.

(*1*) *Diesel heavy-duty engines not utilizing aftertreatment technology (e.g., particulate traps).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(*2*) *Diesel heavy-duty engines utilizing aftertreatment technology (e.g., particulate traps).* For transient HC, CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(*3*) For acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission values to compare with the standards (or family particulate emission limits, as appropriate) shall be the adjusted emission values of paragraph (c)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data engine.

(5)(i) Paragraph (c)(5) of this section applies only to manufacturers which elect to participate in the particulate averaging program.

(ii) If a manufacturer chooses to change the level of any family particulate emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(iii) The weighted particulate emission level of the family particulate emission limits of all applicable engine families, rounded to two significant figures in accordance with ASTM E 29–67, must comply with the particulate standards in § 86.090–11(a)(1)(iv) at the end of the production year.

(6) [Reserved]

(7) Every test engine of an engine family must comply with all applicable standards and family particulate emission limits, as appropriate, as determined in paragraph (c)(4)(iv) of this section, before any engine in that family will be certified.

(d)(1) Paragraph (d) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The applicable fuel evaporative emission standard in § 86.090–10 applies to the emissions of vehicles for their useful life.

(3)(i) For vehicles with a GVWR of up to 26,000 pounds, because it is expected that emission control effeciency will change during the useful life of the vehicle, an evaporative emission deterioration factor shall be determined from the testing described in § 86.090–23(b)(3) for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission control system deterioration during the useful life of the vehicle (minimum 50,000 miles). The factor shall be established to a minimum of two places to the right of the decimal.

(ii) For vehicles with a GVWR or greater than 26,000 pounds, because it is

expected that emission control effeciency will change during the useful life of the vehicle, each manufacturer's statement as required in § 86.090–23(b)(4)(ii) shall include, in accordance with good engineering practice, consideration of control system deterioration.

(4) The evaporative emission test results, if any, shall be adjusted by the addition of the appropriate deterioration factor: *Provided,* that if the deterioration factor as computed in paragraph (c)(3) of this section is less than zoro, that deterioration factor shall be zero for the purposes of this paragraph.

(5) The emission level to compare with the standard shall be the adjusted emission level of paragraph (c)(4) of this section. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(6) Every test vehicle of an evaporataive emission family must comply with the evaporative emission standard, as determined in paragraph (c)(5) of this section, before any vehicle in that family may be certified.

17. A new § 86.090–29 is proposed to be added to Subpart A, to read as follows:

§ 86.090–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards (or the family particulate emission limit, as appropriate).

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.084–26(a)(3)(i)(A) or (b)(4)(i)(A), the data from the last test in that series of tests on that vehicle, will constitute the official data.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission data vehicle or engine which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(3)(i), prior to the performance of any tests to determine whether such vehicle or engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.090–23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. The Administrator, in making or specifying such adjustments, will consider the effects of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

(*2*) For those vehicles or engine parameters which the Administrator has not determined to be subject to adjustment during certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1), the emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.090–35(a)(1)(iii)(D) or (a)(2)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle will be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle will be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of the section would cause that vehicle to fail due to excessive 4,000-mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1) may be readjusted to manufacturer's specification, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(i). Other maintenance or repairs may be performed in accordance with § 86.087–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator

to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii)(A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3) (i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards (or the family particulate emission limit, as appropriate).

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii) (A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission-data engine which the Administrator has determined to be subject to adjustment for certification testing in accordance with § 86.085.22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(3)(i), prior to the performance of any tests to determine whether such engine conforms to applicable emission standards or family particulate emission limits, as appropriate, including tests performed by the manufacturer under § 86.090–23(c)(2). The Administrator, in making or specifying such adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use heavy-duty engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and surveillance information form similar in-use engines.

(*2*) For those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.085–22(e)(1), the emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.090–35(a)(3)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.085–22(e)(1) may be readjusted to the manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment in accordance with § 86.085–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. Other maintenance or repairs may be performed in accordance with § 86.087–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(iii)(B) (*1*) and (*2*) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

(c) (1) Paragraph (c) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The Administrator may require that any one or more of the evaporative emission family-system combinations included in the manufacturer's statement(s) of compliance be installed on an appropriate vehicle and such vehicle be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on an evaporative emission family-system combination the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the

evaporative emission family-system combination and the manufacturer's data, analyses, etc., shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on an evaporative emission family-system combination, the manufacturer's test data will be accepted as the official data: *Provided,* that if the Administrator makes a determination based on testing under paragraph (c)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data, analyses, or other information submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept those data, analyses, etc., as the official data pending retesting or submission or further information.

18. A new § 86.090–30 is proposed to be added to Subpart A, to read as follows:

§ 86.090–30 Certification.

(a)(1)(i) If, after a review of the test reports and data submitted by the maufactuer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraphs (a)(1)(ii) and (c) of this section.

(ii) *Gasoline-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.090–23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(s) covered by such statement(s), except in cases covered by paragraph (c) of this section.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination.

(A) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate).

(B) *Light-Duty Trucks.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate), except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(ii) For gasoline-fueled heavy-duty vehicles, one such certificate will be issued for each manufacturer and will certify compliance for those vehicles previously identified in that manufacturer's statement(s) of compliance as required in § 86.090–23(b)(4) (i) and (ii).

(iii) For diesel ligh-duty vehicles and light-duty trucks or heavy-duty diesel engines included in the appropriate particulate averaging program, the manufacturer may at any time during production elect to change the level of any family particulate emission limit by demonstrating compliance with the new limit as described in § 86.090–28(a)(6), § 86.090–28(b)(7) or § 86.090–28(c)(5). New certificates issued under this paragraph will be applicable only for vehicles or engines produced subsequent to the date of issuance.

(4)(i) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of section 203(a)(3) of the Clean Air Act.

(ii) A violation of section 203(a)(1) of the Clean Air Act occurs when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in the remainder of this paragraph.

(A) When a light-duty vehicle or light-duty truck is not configured to meet high-altitude requirements:

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle is not configured to meet low-altitude requirements, as provided in § 86.087–8(i):

(*1*) At a designated low-altitude location, unless such maufacturer has reason to believe that such vehicle will not be sold to an utimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other that a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field reprentatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraphs (a)(4)(iii) (A) or (B), and paragraph (a)(4)(iii)(C) of this section:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or

delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle which has been exempted from compliance with emission standards at low-altitude, as provided in § 86.087–8(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraphs (a)(4)(iv) (A) or (B), and paragraph (a)(4)(iv)(C) of this section:

(A) Requiring dealers in designated low-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or he resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to met the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i)(A) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

Designated High-Altitude Locations (counties) for Light-Duty Trucks

State of Colorado

Adams	Eagle
Alamosa	Elbert
Arapahoe	El Paso
Archuleta	Fremont
Boulder	Garfield
Chaffee	Gilpin
Cheyenne	Grand
Clear Creek	Gunnison
Conejos	Hinsdale
Costilla	Huerfano
Crowley	Jackson
Custer	Jefferson
Delta	Kit Carson
Denver	Lake
Dolores	La Plata
Douglas	Larimer

Las Animas	Pueblo
Lincoln	Rio Blanco
Mesa	Rio Grande
Mineral	Routt
Moffat	Saguache
Montezuma	San Juan
Montrose	San Miguel
Morgan	Summit
Otero	Teller
Ouray	Washington
Park	Weld
Pitkin	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Otero
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Mora	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Summit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

(iii) For the purpose of paragraph (a) of this section, a "designated low-altitude location" is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Idaho

Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Blaine	Lemhi
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley
Custer	

State of Montana

Beaverhead	Meagher
Deer Lodge	Park
Gallatin	Powell
Jefferson	Silver Bow
Judith Basin	Wheatland
Madison	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Oregon

Harney	Lake
Klamath	

Sate of Texas

Jeff Davis	Parmer
Hudspeth	

State of Wyoming

Albany	Natrona
Campbell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

(6) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government agency and approved by the Administrator.

(7) For incomplete light-duty trucks, a certificate covers only those new motor vehicles which, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in § 86.090–21(d).

(8) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicles weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in § 86.082–2.

(9) For incomplete gasoline-fueled heavy-duty vehicles a certificate covers only those new motor vehicles which, when completed, conform to the nominal maximum fuel tank capacity limitations as described in the application for certification as required in § 86.909–21(e).

(10) For diesel light-duty vehicle families and diesel light-duty truck families or heavy-duty diesel engine families which participate in a particulate averaging program, the manufacturer's weighted particulate emission level of the particulate emission limits of all engine families in a participating class or classes shall not exceed the applicable diesel particulate standard, or composite standard, as appropriate, at the end of the model year, as determined in accordance with 40 CFR Part 86. The certificate shall be void *ab initio* for those vehicles causing any exceeding of the particulate standard.

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards (or family particulate emission limit, as appropriate) by observing the following relationships:

(i) *Light-duty vehicles.* (A) The durability-data vehicle(s) selected under § 86.087–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.87–24(b)(1) (ii) through (iv) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(vii) (A) and (B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(ii) *Light-duty trucks.*

(A) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(ii), shall represent all vehicles of the same engine-system combination as applicable.

(B) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(vii) (A) and (B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(C) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(D) The emission-data vehicle(s) selected under § 86.087–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

(iii) *Heavy-duty engines.* (A) A gasoline-fueled emission-data test engine selected under § 86.087–24(b)(2)(iv) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(B) A gasoline-fueled emission-data test engine selected under § 86.087–

24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission-data test engine selected under § 86.087–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission-data test engine selected under § 86.087–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(iv) *Gasoline-fueled heavy-duty vehicles.* A statement of compliance submitted under § 86.090–23(b)(4) (i) or (ii) shall represent all vehicles in the same evaporative emission family-evaporative emission control system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards (or the family emission limit, as appropriate).

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.090–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards (or family particulate emission limits, as appropriate), he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signing by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.978–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at its option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards (or the family particulate emission limit, as appropriate) for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application.

(A) If the failed vehicle was tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (*i.e.*, one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously, listed. The administrator may require, if applicable that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.087–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards (or the family particulate emission limit, as appropriate); or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards (or the family particulate emission limit, as appropriate) for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079–32). The Administrator may then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards (or family particulate emission limit, as appropriate). Another engine which is in all material respects the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b) (4) or (5) of this section (as applicable), the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in paragraph (c)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above.

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1) (i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information of knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void *ab initio*.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraphs (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manfacturer, except in cases of such fraud or other misconduct as makes the certification invalid *ab initio*.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles, light-duty trucks, and heavy-duty engines.* Notwithstanding the fact that any vehicle or engine configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle or engine configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603 or § 86.1003; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603 or § 86.1003; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609 or § 86.1009; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609 or in § 86.1009; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606 or in § 86.1006 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access as authorized in § 86.606 or § 86.1006 of this part because a manufacturer has located a facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 of § 86.1006 to:

(A) Monitor vehicle selection pursuant to § 86.607 or § 86.1007, or

(B) Select vehicles for testing pursuant to § 86.607 or § 86.1007, or

(C) Monitor vehicle testing perform to satisfy any of the requirements of this part; or

(viii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 or § 86.1006 in examining any of item listed in that section; or

(ix) The manufacturer refuses to comply or in fact does not comply with the requirements of § 86.604(a), § 86.605, and § 86.607, § 86.608, § 86.0610, or § 86.611, or of § 86.1004(a), § 86.1005, § 86.1007, § 86.1008, § 86.1010, § 86.1011, or § 86.1013.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which results in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vii) or (viii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1) (v), (vi), or (vii) of this section, and in which the Administrator has presented to the

manufacturer involved reasonable evidence that a violation of § 86.606 or § 86.1006 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragaraph (d)(1) (v), (vi), or (vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 or § 86.1014 hereof, and

(ii) Not apply to vehicles or engines no longer in the hands of the manufacutrer.

(7) Any voiding of a certificate of conformity under paragraph (d)(4) of this section shall be made only after the manufacturer concerned has been afforded an opportunity for a hearing conducted in accordance with § 86.1014 (light-duty trucks and heavy-duty engines only).

19. A new § 86.090–35 is proposed to be added to Subpart A, to read as follows:

§ 86.090–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards (and family particulate emission limits, as appropriate) of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.090–30(a).

(1) *Light-duty vehicles.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The lable heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine family identification, and evaporative family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate emission limit, as applicable), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (*e.g.*, idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (*e.g.*, air conditioner), if any, should be in operation;

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles;

(F) For vehicles which are part of the diesel particulate averaging program, the family particulate emission limit to which the vehicle is certified;

(G) For vehicles that have been exempted from compliance with the emission standards at high altitude, as specified in § 86.087–8(h):

(*1*) A highlighted statement (*e.g.*, underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude; and

(H) For vehicles that have been exempted from compliance with the emission standards at low altitude, as specified in § 86.087–8(i):

(*1*) A highlighted statement (*e.g.*, underscored or boldface letters) that the vehicle is certified to applicable emission standards at high altitude only, and

(*2*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at low altitude.

(2) *Light-duty trucks.* (i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The lable shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label.

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family particulate limit, as appropriate), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (*e.g.*, idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (*e.g.*, air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with the emission standards (or family particulate limit, as appropriate) at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to high altitude, low altitude or both;

(E) The prominent statement: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks."

(F) If the manufacturer is provided an alternate useful-life period under the provisions of § 86.090–21(f), the prominent statement; "This vehicle has been certified to meet U.S. EPA standards for a useful-life period of ——— years or ——— miles of operation, whichever occurs first. This vehicle's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate

useful life in terms other than years of miles (*e.g.*, hours, or miles only);

(G) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified;

(H) A statement, if applicable, that the high-altitude vehicle was designated or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser;

(I) For vehicles that have been exempted from compliance with the high-altitude emission standards, as specified in § 86.087–9(g)(2):

(*1*) A highlighted statement (*e.g.*, underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(*2*) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(*3*) A statement that the emission performance warranty provisions of 40 CFR Part 85, Subpart I do not apply when the vehicle is tested at high altitude; and,

(J) For vehicles which are part of the diesel particulate averaging program, the family particulate emission limit to which the vehicle is certified.

(3) *Heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Important Engine Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year). The manufacturer may, in lieu of including the date of manufacture on the engine label, maintain a record of the engine manufacture dates. The manufacturer shall provide the dates of manufacture records to the Administrator upon request;

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (*e.g.*, air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (*e.g.*, idle CO, idle air-fuel ratio, idle speed drop), and valve lash;

(G) For diesel engines the label should include the advertised hp at rpm, fuel rate at advertised hp in mm^3/stroke, valve lash, initial injection timing, and idle speed;

(H) The prominent statement: "This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines."

(I) If the manufacturer is provided with an alternate useful-life period under the provisions of § 86.090–21(f), the prominent statement: "This engine has been certified to meet U.S. EPA standards for a useful-life period of ——— miles or ——— hours of operation, whichever occurs first. This engine's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than miles or hours (*e.g.*, years, or hours only);

(J) *For diesel engines.* The prominent statement: "This engine has a primary intended service application as a ——— heavy-duty diesel engine." (The primary intended service applications are light, medium, and heavy, as defined in § 86.085–2);

(K) *For gasoline-fueled engines.* One of the following statements as applicable:

(*1*) For engines certified to the emission standards under § 86.090–10(a)(1)(i), the statement: "This engine is certified for use in all heavy-duty vehicles."

(*2*) For engines certified under the provisions of § 86.090–10(a)(3)(i), the statement: "This engine is certified for use in all heavy-duty vehicles under the special provision of 40 CFR 86.090–10(a)(3)(i)."

(*3*) For engines certified to the emission standards under § 86.090–10(a)(1)(ii), the statement: "This engine is certified for use only in heavy-duty vehicles with a gross vehicle weight rating above 14,000 lbs."

(L) For engines which are part of the heavy-duty diesel particulate averaging program, the family particulate emission limit to which the engine is certified.

(iv) The label may be made up of one or more pieces: *Provided,* that all pieces are permanently attached to the same engine or vehicle part as applicable.

(4)(i) *Gasoline-fueled heavy-duty vehicles.* A permanent, legible label shall be affixed in a readily visible position in the engine compartment. If such vehicles do not have an engine compartment, the label required in paragraphs (a)(4) and (g)(1) of this section shall be affixed in a readily visible position on the operator's enclosure or on the engine.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numericals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Evaporative family identification;

(D) The maximum nominal fuel tank capacity (in gallons) for which the evaporative control system is certified; and

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to gasoline-fueled heavy-duty vehicles.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable state emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards (or family particulate emission limits, as appropriate) of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 40 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an

inch high, of a color that contrasts with the background of the label:

(i) The Heading: "Vehicle Emission Control Information."

(ii)(A) *For light-duty vehicles,* the statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19— Model Year New Motor Vehicles."

(B) *For light-duty trucks,*

(*1*) The statement: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks."

(*2*) If the manufacturer is provided an alternate useful-life period under the provisions of § 86.090–21(f), the prominent statement: "This vehicle has been certified to meet U.S. EPA standard for a useful-life of period of ——— years or ——— miles of operation, whichever occurs first. This vehicle's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than years or miles (*e.g.*, hours, or miles only).

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST"

(B) For all vehicles certifed as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST"

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following prominent statement printed on the label required by paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks when completed at a maximum curb weight of ——— pounds or at a maximum gross vehicle weight rating of ——— pounds or with a maximum frontal area of —— square feet."

(e) Incomplete heavy-duty vehicles having a gross vehicle weight rating of 8,500 pounds or less shall have one of the following statements printed on the label required by paragraph (a)(3) of this section in lieu of the statement required by paragraph (a)(3)(iii)(H) of this section: "This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area of greater than 45 square feet."

(f) The manufacturer of any incomplete light-duty vehicle or light-duty truck shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emission certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with National Highway Traffic Safety Administration safety notification requirements published in 49 CFR Part 568.

(g)(1) Incomplete gasoline-fueled heavy-duty vehicles shall have the following prominent statement printed on the label required in paragraph (a)(4) of this section: "(Manufacturer's corporate name) has determined that this vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Gasoline-Fueled Heavy-Duty Vehicles when completed with a nominal fuel tank capacity not to exceed — gallons. Persons wishing to add fuel tank capacity beyond the above maximum must submit a written statement to the Administrator that the hydrocarbon storage system has been upgraded according to the requirements of 40 CFR § 86.090–35(g)(2)."

(2) Persons wishing to add fuel tank capacity beyond the maximum specified on the label required in paragraph (g)(1) of this section shall:

(i) Increase the amount of fuel tank vapor storage material according to the following function:

$$Cap_f = Cap_i \left(\frac{T.\ Vol.}{Max.\ Vol.} \right)$$

Where:

Cap_f = final amount of fuel tank vapor storage material, grams.

Cap_i = initial amount of fuel tank vapor storage material, grams.

T. Vol. = total fuel tank volume of completed vehicle, gallons.

Max. Vol. = maximum fuel tank volume as specified on the label required in paragraph (g)(1) of this section, gallons.

(ii) Use, if applicable, hosing for fuel vapor routing which is at least as impermeable to hydrocarbon vapors as that used by the primary manufacturer.

(iii) Use vapor storage material with the same adsorptive characteristics as that used by the primary manufacturer.

(iv) Connect, if applicable, any new hydrocarbon storage device to the existing hydrocarbon storage device in series such that the original hydrocarbon storage device is situated between the fuel tank and the new hydrocarbon storage device. The original hydrocarbon storage device shall be sealed such that vapors cannot reach the atmosphere. The elevation of the original hydrocarbon storage device shall be equal to or lower than the new hydrocarbon storage device.

(v) Submit a written statement to the Administrator that paragraphs (g)(2)(i) through (g)(2)(iv) of this section have been complied with.

(3) If applicable, the Administrator will send a return letter verifying the receipt of the written statement required in paragraph (g)(2)(v) of this section.

SUBPART N—[AMENDED]

20. A new § 86.1301–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1301–87 Scope; applicability.

This subpart contains gaseous emission test procedures for gasoline-fueled heavy-duty engines and gaseous and particulate emission test procedures for heavy-duty diesel engines. It applies to 1987 and later model years.

21. A new § 86.1306–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1306–87 Equipment required and specifications; overview.

This subpart contains procedures for exhaust emissions tests on diesel or gasoline-fueled heavy-duty engines. Equipment required and specifications are as follows:

(a) *Exhaust emission tests.* All engines subject to this subpart are tested for exhaust emissions. Diesel and gasoline-fueled engines are tested identically with the exception of the systems used to measure hydrocarbon, nitrogen oxide, and particulate; diesel engines require a heated, continuous hydrocarbon detector and a continuous nitrogen oxide detector (§ 86.1310–87); gasoline-fueled engines are not tested for particulate emissions (§ 86.1309–84). Necessary equipment and specifications appear in §§ 86.1306–84, 86.1309–84, 86.1310–87 and 86.1311–84.

(b) *Fuel, analytical gas, and engine cycle specifications.* Fuel specifications for exhaust emission testing are specified in § 86.1313–84. Analytical gases are specified in § 86.1314–84. The EPA heavy-duty transient engines cycles for use in exhaust testing are described in § 86.1333–84 and specified in Appendix I to this part.

22. A new § 86.1310–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1310–87 Exhaust gas sampling and analytical system; diesel engines.

(a) *General.* The exhaust has sampling system described in this paragraph is designed to measure the true mass of both gaseous and particulate emissions in the exhaust of heavy-duty diesel engines. This system utilizes the CVS concept (described in § 86.1309–84) of measuring mass emissions of CO, CO_2, and particulate. A continuously integrated system is required for HC and NO_x measurement, and is allowed for CO and CO_2. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. The mass of particulate emissions is determined from a proportional mass sample collected on a filter and from the sample flow and total flow over the test period. As an option, the measurement of total fuel mass consumed over a cycle may be substituted for the exhaust measurement of CO_2. General requirements are as follows:

(1) This sampling system requires the use of a PDP–CVS, or a CFV–CVS with either a heat exchanger or electronic flow compensation. Figure N88–3 is a schematic drawing of the PDP system. Figure N88–4 is a schematic drawing of the CFV system.

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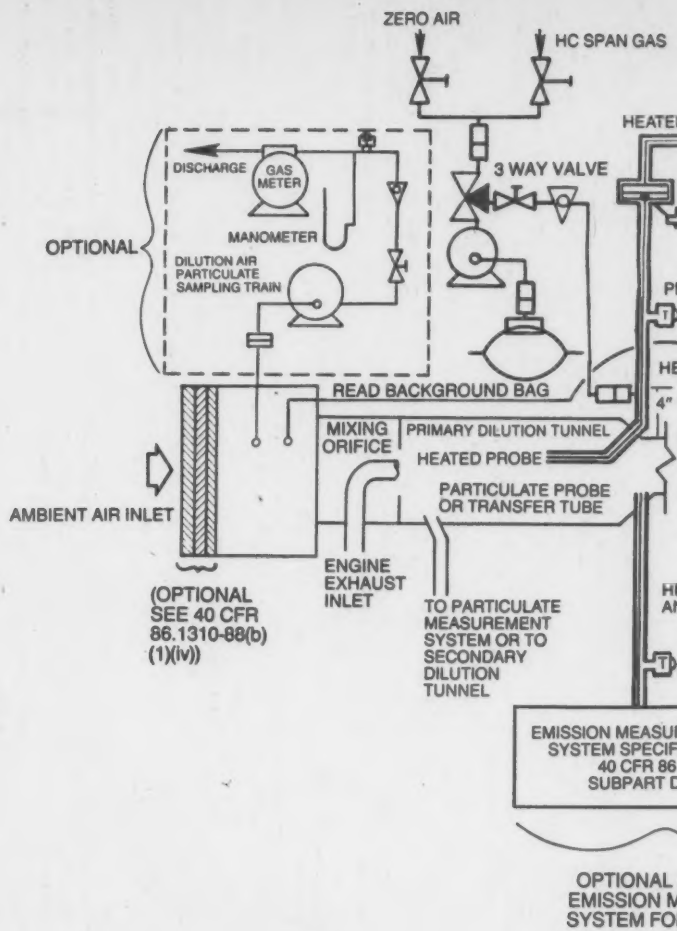

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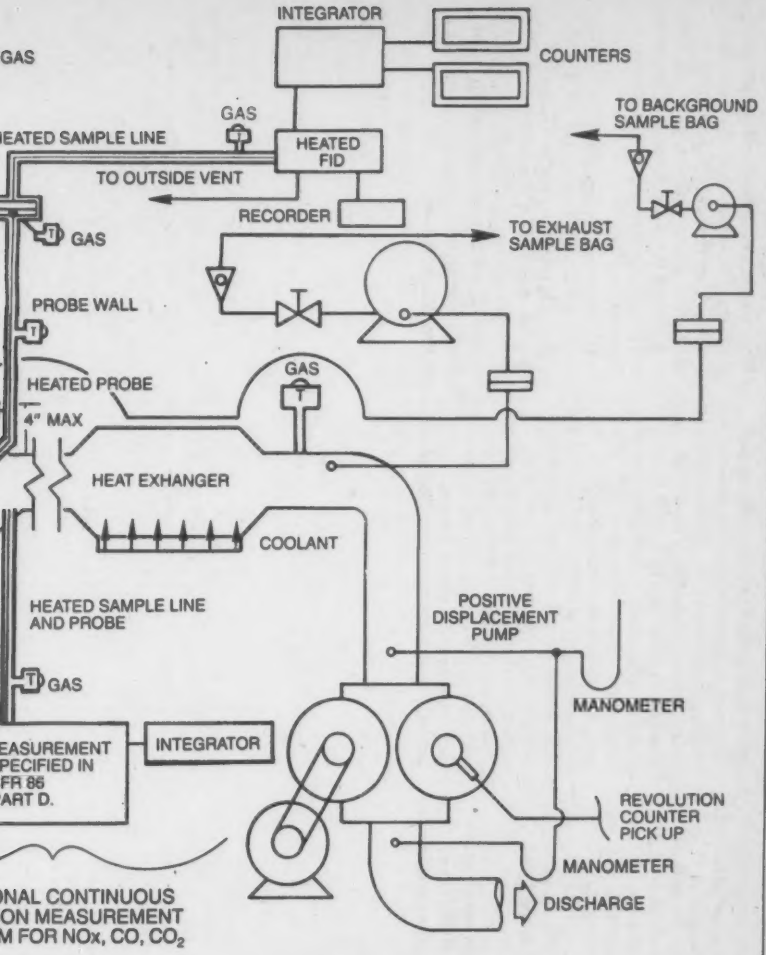

GURE N88-3
S SAMPLING SYSTEM (PDP-CVS)
SEL ENGINES ONLY)
84-5 FOR SYMBOL LEGEND)

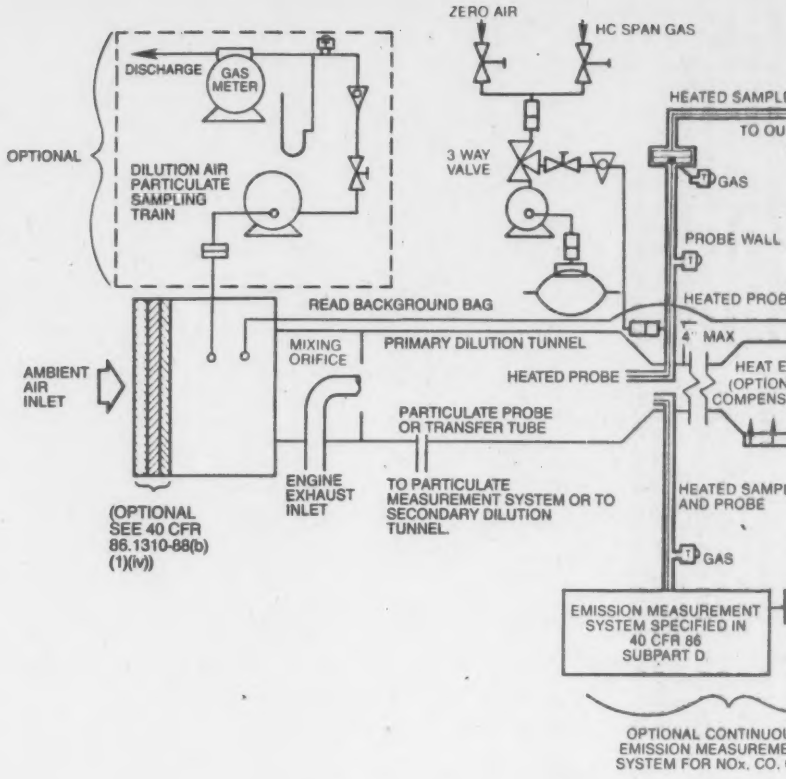

FIGURE N8
GASEOUS EMISSIONS SAMPLI
(FOR DIESEL ENGIN
(SEE FIGURE N84-5 FOR S

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E N88-4
MPLING SYSTEM (CFV-CVS)
ENGINES ONLY)
OR SYMBOL LEGEND)

(2) The HC analytical system for diesel engines requires a heated flame ionization detector (HFID) and heated sample system.

(i) The HFID sample must be taken directly from the diluted exhaust stream through a heated probe and integrated continuously over the test cycle. Unless compensation for varying flow is made, the HFID must be used with a constant flow sytem to ensure a representative sample.

(ii) The heated probe shall be located in the primary dilution tunnel and far enough downstream of the mixing chamber to ensure a uniform sample distributiom across the CVS duct at the point of sampling.

(3) The CO and CO_2 analytical system for diesel engines requires:

(i) Bag sampling (§ 86.1309–84) and analytical (§ 86.1311–84) capabilities as shown in Figure N88–3 (or Figure N88–4), or

(ii) Continuously integrated measurement of diluted CO and CO_2 meeting the minimum requirements and technical specifications contained in paragraph (b)(5) of this section. Unless compensation for varying flow is made, a constant flow system must be used to ensure a representative sample.

(4) The NO_x analytical system for diesel engines requires a continuously integrated measurement of diluted NO_x meeting the minimum requirements and technical specifications contained in paragraph (b)(5) of this section. Unless compensation for varying flow is made, a constant flow system must be used to ensure a representative sample.

(5) The mass of particulate in the exhaust is determined via filtration. The particulate sampling system requires dilution of the exhaust in either one or two steps to a temperature never greater than 125°F (51.7°C) at the primary sample filter. A backup filter provides a confirmation of sufficient filtering efficiency.

(6) Since various configurations can produce equivalent results, exact conformance with the drawings is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems. Other components, such as snubbers, which are not needed to maintain accuracy on some systems, may be excluded if their exclusion is based upon good engineering judgment.

(7) Other sampling and/or analytical systems may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(b) *Component description.* The components necessary for diesel exhaust sampling shall meet the following requirements:

(1) *Exhaust dilution system.* The PDP–CVS shall conform to all of the requirements listed for the exhaust gas PDP–CVS in § 86.1309–84(b). The CFV–CVS shall conform to all of the requirements listed for the exhaust gas CFV–CVS in § 86.1309–84(c). In addition, the CVS must conform to the following requirements:

(i) The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at or below the temperatures required for the measurement of particulate and hydrocarbon emissions noted below. This may be achieved by either of the following two methods:

(A) *Single-dilution method.* The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at a temperature of 125 °F (51.7 °C) or less at the sampling zone in the primary dilution tunnel. Direct sampling of the particulate material may then take place (Figure N88–4a).

(B) *Double-dilution method.* The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream in the primary dilution tunnel at a temperature of 375 °F (191 °C) or less at the sampling zone. Gaseous emission samples may be taken directly from this sampling point. An exhaust sample must then be taken at this point to be diluted a second time for use in determining particulate emissions. The secondary dilution system must provide sufficient secondary dilution air to maintain the double-diluted exhaust stream at a temperature of 125 °F (51.7 °C) or less immediately before the primary particulate filter in the secondary dilution tunnel (Figure N88–4b).

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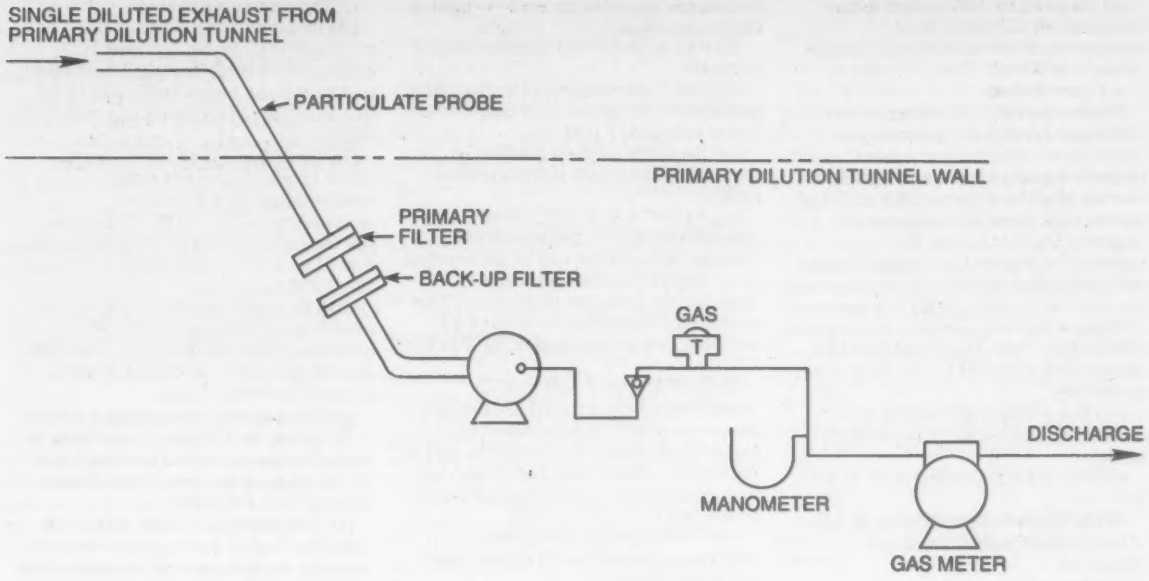

FIGURE N88-4a
SINGLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

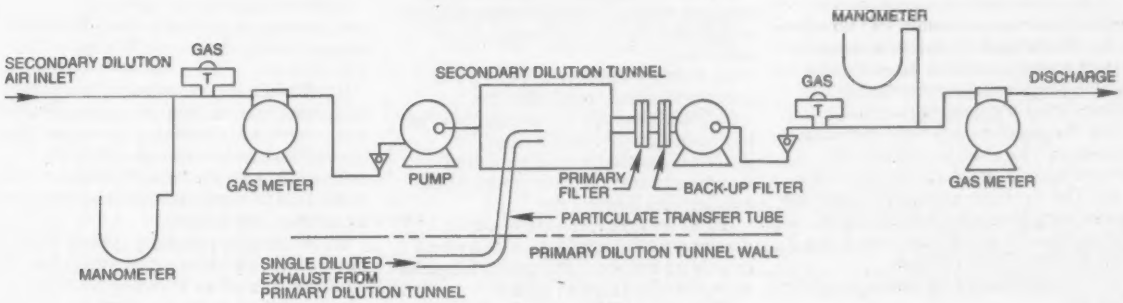

FIGURE N88-4b
DOUBLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

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(ii) For the CFV-CVS, either a heat exchanger or electronic flow compensation (which also includes the particulate sample flows) is required (see Figure N88–4).

(iii) For the CFV-CVS when a heat exchanger is used, the gas mixture temperature, measured at a point immediately ahead of the critical flow venturi, shall be within ±20°F (11°C) of the average operating temperature observed during the test. The temperature measuring system (sensors and readout) shall have an accuracy and precision of ±3.4°F (1.9°C). For systems utilizing a flow compensator to maintain proportional flow, the requirement for maintaining constant temperature is not necessary.

(iv) The primary dilution air and secondary dilution air (if applicable) shall:

(A) Have a temperature of 77°± 9°F (25° — 5 °C).

(B) Be filtered at the dilution air inlet if background particulate is not measured.

(2) [Reserved]

(3) *Continuous HC measurement system.*

(i) The continous HC sample system (as shown in Figure N88–3 or N88–4) uses an "overflow" zero and span system. In this type of system, excess zero or span gas spills out of the probe when zero and span checks of the analyzer are made. The "overflow" system may also be used to calibrate the HC analyzer per § 86.1321–84(b), although this is not required.

(ii) No other analyzers may draw a sample from the continuous HC sample probe, line or system, unless a common sample pump in used for all analyzers and the sample line system design reflects good engineering practice.

(iii) The overflow gas flow rates into the sample line shall be at least 105 percent of the sample system flow rate.

(iv) The overflow gases shall enter the heated sample line no farther than ¼ inches from the outside surface of the CVS duct or dilution tunnel.

(v) The continuous hydrocarbon probe shall be:

(A) Installed in the primary dilution tunnel at a point where the dilution air and exhaust are well mixed (*i.e.,* approximately 10 tunnel diameters downstream of the point where the exhaust enters the dilution tunnel).

(B) Sufficiently distant (radially) from other probes and the tunnel wall so as to be free from the influence of any wakes or eddies.

(C) Heated over the entire length to maintain a 375° ±20 °F (191°±11 °C) *wall* temperature. (Insulation and other techniques may also be used to maintain the temperature.)

(D) 0.19 in. (0.457 cm) minimum inside diameter.

(E) Free from cold spots (*i.e.,* free from spots where the probe *wall* temperature is less than 355 °F (180 °C)).

(iv) the dilute exhaust *gas* flowing in the total hydrocarbon sample system shall be:

(A) At 375°±10 °F (191°±6 °C) immediately before the heated filter. This *gas* temperature will be determined by a temperature sensor located immediately upstream of the filter. The sensor and its readout shall have an accuracy and precision of ±3.4 °F (1.9 °C).

(B) At 375°±10 °F (191°±6 °C) immediately before the HFID. This *gas* temperature will be determined by a temperature sensor located at the exit of the heated sample line. The sensor and its readout shall have an accuracy and precision of ±3.4 °F (1.9 °C).

(vii) The response time of the continuous measurement system shall be no greater than:

(A) 1.5 seconds from an instantaneous step change at the probe entrance to the analyzer to within 90 percent of the step change.

(B) 20 seconds from an instantaneous step change at the entrance to the sample probe or overflow span gas port to within 90 percent of the step change. Analysis system reponse time shall be coordinated with CVS flow fluctuations and sampling time/test cycle offsets if necessary.

(C) For the purpose of verification of response times, the step change shall be at least 60 percent of full-scale chart deflection.

(4) *Primary-dilution tunnel.* (i) The primary dilution tunnel shall be:

(A) Small enough in diameter to cause turbulent flow (Reynolds Number greater than 4,000) and of sufficient length to cause complete mixing of the exhaust and dilution air:

(B) At least 18 inches (45.7 cm) in diameter with a single-dilution system or at least 8 inches (20.3 cm) in diameter with a double-dilution system;

(C) Constructed of electrically conductive material which does not react with the exhaust components; and

(D) Electrically grounded.

(ii) The temperature of the diluted exhaust stream inside of the primary dilution tunnel shall be sufficient to prevent water condensation.

(iii) The engine exhaust shall be directed downstream at the point where it is introduced into the primary dilution tunnel.

(5) *Continously integrated NO_x, CO, and CO_2 measurement systems.*

(i) The sampe probe shall:

(A) Be in the same plane as the continuous HC probe, but shall be sufficiently distant (radially) from other probes and the tunnel wall so as to be free from the influences of any wakes or eddies.

(B) Heated and insultated over the entire length, to prevent water condensation, to a minimum temperature of 131 °F (55 °C). Sample *gas* temperature immediately before the first filter in the system shall be at least 131 °F (55 °C).

(ii) The continuous NO_x, CO, or CO_2 sampling and analysis system shall conform to the specifications of 40 CFR Part 86, Subpart D with the following exceptions and revisions:

(A) The system components required to be heated by Subpart D need only be heated to prevent water condensation, the minimum component temperature shall be 131 °F (55 °C).

(B) The system response defined in § 86.329–79 shall be no greater than 20 seconds. Analysis system response time shall be coordinated with CVS flow fluctuations and sampling time/test cycle offsets, if necessary.

(C) Alternative NO_x measurement techniques outlined in § 86.346–79 are not permitted for NO_x measurement in this Subpart.

(D) All analytical gases shall conform to the specifications of § 86.1314–84.

(E) Any range on a linear analyzer below 155 ppm shall have and use a calibration curve conforming to § 86.330–79.

(F) The measurement accuracy requirements specified in § 86.338–79 are superseded by those specified in § 86.1338–84.

(iii) The chart deflections of analyzers with non-linear calibration curves shall be converted to concentration values by the calibration curve(s) specified in Subpart D (§ 86.330–79) before flow correction (if used) and subsequent integration takes place.

(6) *Particulate sampling system.* The particulate collection system must be configured in either of two ways. The *single-dilution* method collects a proportional sample from the primary tunnel, and then passes this sample through the collection filter (Figure N88–4a). The *double-dilution* method collects a proportional sample from the primary tunnel, and then transfers this sample to a secondary dilution tunnel where the sample is further diluted; the double-diluted sample is then passed through the collection filter (Figure N88–4b). Without flow compensation, proportional sampling is achieved by introducing the seconary dilution air at a

constant mass flow rate, and removing the double-diluted sample at a constant mass flow rate. The requirements for these two systems are:

(i) *Single Dilution Method.* (A) The particulate sample probe shall be:

(*1*) Installed facing upstream at a point where the dilution air and exhaust air are well mixed (*i.e.*, on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary dilution tunnel).

(*2*) Sufficiently distant (radially) from other sampling probes so as to be free from the influence of any wakes or eddies produced by the other probes.

(*3*) 0.5 in. (1.27 cm) minimum inside diameter.

(*4*) The distance from the sampling tip to the filter holder shall be at least 5 probe diameters for filters located inside the primary dilution tunnel, and not more than 40 inches (102 cm) for filters located outside the primary dilution tunnel.

(*5*) Designed to minimize the deposition of particulate in the probe (*i.e.*, bends should be as gradual as possible, protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(B) The particulate sample pump(s) shall be located sufficiently distant from the dilution tunnel so that the inlet gas temperature is maintained at a constant temperature (±5 °F (±2.8 °C)) if flow compensation is not used.

(C) The gas meters or flow instrumentation shall be located sufficiently distant from the tunnel so that the inlet gas temperature remains constant (±5 °F (±2.8 °C)) if flow compensation is not used.

(ii) *Double-dilution method.* (A) The particulate sample transfer tube shall be configured and installed so that:

(*1*) The inlet faces upstream in the primary dilution tunnel at a point where the primary dilution air and exhaust are well mixed (*i.e.*, on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary dilution tunnel).

(*2*) The particulate sample exists on the centerline of the secondary tunnel and points downstream.

(B) The particulate sample transfer tube shall be:

(*1*) Sufficiently distant (radially) from other sampling probes (in the primary dilution tunnel) so as to be free from the influence of any wakes or eddies produced by the other probes.

(*2*) 0.5 in. (1.27 cm) minimum inside diameter.

(*3*) No longer than 36 in. (91.4 cm) from inlet plane to exit plane.

(*4*) Designed to minimize the deposition of particulate during transfer (*i.e.*, bends should be as gradual as possible, protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(*5*) Constructed of electrically conductive material which does not react with the exhaust components, and electrically grounded.

(C) The secondary dilution air shall be at a temperature of 77°±9 °F (25°±5 °C).

(D) The secondary-dilution tunnel shall be:

(*1*) 3.0 inches (7.62 cm) minimum inside diameter.

(*2*) Of sufficient length so as to provide a residence time of at least 0.25 seconds for the double-diluted sample.

(*3*) Constructed of electrically conductive material which does not react with the exhaust components, and electrically grounded.

(E) Additional dilution air must be provided so as to maintain a sample temperature of 125 °F (51.7 °C) immediately before the primary sample filter. This dilution air must be introduced at a known constant mass flow rate in order to maintain proportional sampling. This can be achieved by either of the following methods:

(*1*) A PDP-type pump flowing filtered dilution air at a temperature of 77°±9 °F (25°±5 °C) and essentially constant pressure (atmospheric is acceptable) along with a gas meter or flow instrumentation for mass determination. (See § 86.1320–87 for calibration specifics.) The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains 77°±9 °F (25°±5 °C).

(*2*) A choked critical flow orifice flowing filtered dilution air. For mass determination, a gas meter or other flow instrumentation is acceptable. The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains at 77°±9 °F (25°±5 °C).

(F) The primary filter holder shall be located within 12.0 in. (30.5 cm) of the exit of the secondary dilution tunnel.

(G) The particulata sample pump shall be located sufficiently distant from the dilution tunnel so that the inlet gas is maintained at a constant temperature (±5 °F ±2.8 °C)) if flow compensation is not used.

(H) The gas meter or flow instrumentation (if double-dilution, this means the downstream device) shall be located sufficiently distant from the tunnel (either primary or secondary) so that the inlet gas temperature remains essentially constant (±5 °F ±2.8 °C)) if flow compensation is not used.

(7) *Particulate sampling filters.*

(i) Fluorocarbon-coated glass fiber filters or fluorocarbon-based (membrane) filters are required.

(ii) Particulate filters must have a minimum diameter of 70 mm (60 mm stain area). Larger diameter filters are acceptable.

(iii) The dilute exhaust will be simultaneously sampled by a pair of filters (one primary and one back-up filter) during the cold-start test and by a second pair of filters during the hot-start test. The back-up filter holder shall be located no more than 4 inches downstream of the primary filter holder.

(iv) The recommended minimum loading on a primary 70 mm filter is 5.3 milligrams. Equivalent loadings (*i.e.*, mass/stain area) are recommended for larger filters. For equivalency calculations assume the 70 mm loading has a 60 mm stain diameter.

23. A new § 86.1312–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1312–87 Weighing chamber and microgram balance specifications.

(a) *Ambient conditions.* (1) *Temperature.* The temperature of the chamber (or room) in which the particulate filters are conditioned and weighed shall be maintained with within ±10 °F ±6 °C) of a set point between 68 °F (20°C) and 86 °F (30 °C) during all filter conditioning and weighing.

(2) *Humidity.* The relative humidity of the chamber (or room) in which the particulate filters are conditioned and weighed shall be maintained with within ±10 percent (relative humidity) of a set point between 30 and 70 percent during all filter conditioning and weighing.

(3) The chamber (or room) environment shall be free of any ambient contaminates (such as dust) that would settle on the particulate filters during their stabilization. It is required that two reference filters remain in the weighing room at all times, and that these filters be weighed once each 24-hour period. If the weight of either or both of these two reference filters changes by more than ±1.0 percent of the nominal filter loading (a) minimum of 5.3 milligrams, if possible) during the conditioning period, then all filters in the process of being stabilized should be discarded, and any tests repeated. The reference filters shall be changed at least once per month.

(b) *Microgram balance specifications.* The microgram balance used to determine the weights of all filters shall have a precision (standard deviation) and readability of one microgram.

24. A new § 86.1320–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1320–87 Gas meter or flow instrumentation calibration, particulate measurement.

(a) Sampling for particulate emissions requires the use of gas meters or flow instrumentation to determine flow through the particulate filters. This instrument shall receive initial and periodic calibrations as follows:

(1) Install a standard air flow measurement device upstream of the instrument. A critical flow orifice, a bellmouth nozzle, or a laminar flow element is recommended as the standard device.

(2) Flow air through the calibration system at the sample flow rate used for particulate testing and at the backpressure which occurs during the sample test.

(3) When the temperature and pressure in the system have stabilized, measure the indicated gas volume over a time period of at least 5 minutes and until a gas volume of at least ±1 percent accuracy can be determined by the standard device. Record the stabilized air temperature and pressure upstream of the instrument and as required for the standard device.

(4) Calculate air flow at standard conditions as measured by both the standard device and the instrument. (Standard conditions are defined as 68°F (20°C) and 29.92 in. of mercury (101.3 kPa).)

(5) Repeat the procedures of paragraphs (a) (2) through (4) of this section using flow rates which are 10 percent above and 10 percent below the nominal sampling flow rate.

(6) If the air flow at standard conditions measured by the instrument differs by more than ±1 percent from the standard measurement at any of the three measured flow rates, then a correction shall be made by either of the following two methods:

(i) Mechanically adjust the instrument so that it agrees within 1 percent of the standard measurement at the three specified flow rates, or

(ii) Develop a continuous best fit calibration curve for the instrument (as a function of the standard device flow measurement) from the three calibration points that represents the data to within 1 percent at all points to determine corrected flow.

(b) *Other systems.* A bell prover may be used to calibrate the instrument if the procedure outlined in ANSI B109.1–1973 is used. Prior approval by the Administrator is not required to use the bell prover.

25. A new § 86.1327–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1327–87 Engine dynamometer test procedures; overview.

(a) The engine dynamometer test procedure is designed to determine the brake-specific emissions of hydrocarbons, carbon monoxide, oxides of nitrogen and particulate (diesels only). The test procedure consists of a "cold" start test following either natural or forced cool-down periods described in § 86.1334–84 and § 86.1335–84, respectively. A "hot" start test follows the "cold" start test after a hot soak of 20 minutes. The idle test of Subpart P may be run after the "hot" start test. The exhaust emissions are diluted with ambient air and a continuous proportional sample is collected for analysis during both the cold- and hot-start tests. The composite samples collected are analyzed either in bags or continuously for hydrocarbons (HC), carbon monoxide (CO), carbon dioxide (CO_2), and oxides of nitrogen (NO_x). A bag or continuous sample of the dilution air is similarly analyzed for background levels of hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen. In addition, for diesels only, particulates are collected on fluorocarbon-coated glass fiber filters or fluorocarbon-based (membrane) filters, and the dilution air is prefiltered.

(b) Engine torque and rpm shall be recorded continuously during both the cold and hot start tests. Data points shall be recorded at least once every second.

(c) Using the torque and rpm feedback signals the brake horsepower is integrated with respect to time for the cold and hot cycles. This produces a brake horsepower-hour value that enables the brake-specific emissions to be determined (see § 86.1342–84, Calculations; gaseous exhaust emissions and § 86.1343–87, Calculations; particulate exhaust emissions).

(d)(1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to show that normal operating conditions are maintained in the engine induction system.

(3) On air-cooled engines, the fan shall be installed.

(4) Additional accessories (*e.g.*, oil cooler, alternators, air compressors, etc.) may be installed or their loading simulated if typical of the in-use application.

(5) The engine may be equipped with a production type starter.

(e) Means of engine cooling which will maintain the engine operating temperatures (*i.e.*, temperatures of intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer. Only water is allowed as an engine-coolant medium. Rust inhibitors and lubrication additives may be used, up to the levels recommended by the additive manufacturer. Antifreeze mixtures (*i.e.*, ethlene glycol, alcohols) and other coolants that would enhance heat transfer are specifically prohibited.

(f) *Exhaust system.* The exhaust system shall meet the following requirements:

(1) *Gasoline-fueled engines.* A chassis-type exhaust system shall be used. For all catalyst systems, the distance from the exhaust manifold flange(s) to the catalyst shall be the same as in the vehicle configuration unless the manufacturer provides data showing equivalent performance at another location.

(2) *Diesel engines.* Both a chassis-type and facility-type exhaust system may be used. The exhaust backpressure or restriction shall be typical of those seen in the actual average vehicle exhaust system configuration and may be set with a valve (muffler omitted).

(i) The chassis-type exhaust system shall meet the following requirements:

(A) The distance from the exhaust manifold flange(s) to any exhaust aftertreatment device shall be the same as in the vehicle configuration unless the manufacturer is able to demonstrate equivalent performance at another location.

(B) The distance from the exhaust manifold flange to the exist of the chassis-type exhaust system shall be a maximum of 12 feet (3.66 m).

(ii) The facility-type exhaust system shall meet the following requirements:

(A) The exhaust system tubing length from the exist of the chassis exhaust system or engine exhaust manifold flange to the primary dilution tunnel shall be 12 feet (3.66 m) or less if uninsulated, and 20 feet (6.1 m) or less if insulated. It must be composed of smooth stainless steel tubing. This tubing shall have a maximum inside diameter of 6.0 in. (15.2 cm).

(B) Short sections (altogether not to exceed 20 percent of the entire tube

length) of flexible tubing at connection points are allowed.

(C) If the tubing is insulated, the radial thickness of the insulation must be at least R inches, where $R=16(k)-2(r)$, Where:

(*1*) k=Thermal conductivity of the insulating material (BTU/hr-ft- °F), and

(*2*) r=Outer radius of uninsulated tubing (inches).

26. A new § 86.1337–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1337–87 Engine dynamometer test run.

(a) The following steps shall be taken for each test:

(1) Prepare the engine, dynamometer, and sampling system for the cold-start test. Change filters, etc. and leak check as necessary.

(2) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(3) Attach the CVS to the engine exhaust system any time prior to starting the CVS.

(4) Start the CVS (if not already on), the sample pumps (except for the diesel particulate sample pump(s), if applicable), the engine cooling fan(s), and the data collection system. The heat exchanger of the constant volume sampler (if used), and the heated components of any continuous sample system(s) (if applicable) shall be preheated to their designated operating temperatures before the test begins. (See § 86.1340–84(e) for continuous sampling procedures.)

(5) Adjust the sample flow rates to the desired flow rates and set the CVS gas flow measuring devices to zero. (Note.—CFV–CVS sample flow rate is fixed by the venturi design.)

(6) Carefully install a clean particulate sample filter into each of the filter holders (diesel only).

(7) Follow the manufacturer's choke and throttle instructions for cold starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon and NO_x (and CO and CO_2, if continuous) analyzer system integrators (if used) and turn on the particulate sample pumps and indicate the start of the test on the data collection medium.

(8) As soon as it is determined that the engine is started, start a "free idle" timer.

(9) Allow the engine to idle freely with no-load for 24±1 seconds. This idle period for automatic transmission engines may be interpreted as an idle speed in neutral or park. All other idle conditions shall be interpreted as an idle speed in gear. It is permissible to lug the engine down to curb idle speed during the last 8 seconds of the free idle period for the purpose of engaging dynamometer control loops.

(10) Begin the transient engine cycles such that the first non-idle recond of the cycle occurs at 25±1 seconds. The free idle time is included in the 25±1 seconds. During diesel particulate testing without the use of flow compensation, adjust the sample pump(s) so that the flow rate through the particulate sample probe or transfer tube is maintained at a constant value within ±5 percent of the set flow rate. Record the average temperature and pressure at the gas meter(s) or flow instrumentation inlet. If the set flow rate cannot be maintained because of high particulate loading on the filter, the test shall be terminated. The test shall be rerun using a lower flow rate and/or a larger diameter filter.

(11) On the last record of the cycle, cease sampling. Immediately turn the engine off, and start a hot-soak timer. For diesel engines, also turn off the particulate sample pumps, the gas flow measuring device(s) and any continuous analyzer system integrators and indicate the end of the test on the data collection medium. Sampling systems should continue to sample after the end of the test cycle until system response times have elapsed.

(12) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used, and the CVS blower (or disconnect the exhaust system from the CVS). As soon as possible, transfer the "cold start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 83.1340–84. A stabilized reading of the exhaust sample on all analyzers shall be obtained within 20 minutes of the end of the sample collection phase of the test. For diesel engines carefully remove each particulate sample filter from its holder and place each in a petri dish and cover.

(13) Allow the engine to soak for 20±1 minutes.

(14) Prepare the engine and dynamometer for the hot start test.

(15) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(16) Start the CVS (if not already on) or connect the exhaust system to the CVS (if disconnected). Start the sample pumps (except the diesel particulate sample pump(s), if applicable), the engine colling fan(s) and the data collection system. The heat exchanger of the constant volume sampler (if used) and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their designated operating temperatures before the test begins. See § 86.1340–84(e) for continuous sampling procedures.

(17) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

(18) Carefully install a clean particulate filter in each of the filter holders (for diesels only).

(19) Follow the manufacturer's choke and throttle instruction for hot starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon and NO_x (and CO and CO_2, if continuous) analyzer system integrators (if used), indicate the start of the test on the data collection medium, and turn on the particulate sample pump(s).

(20) As soon as it is determined that the engine is started, start a "free idle" timer.

(21) Allow the engine to idle freely with no-load for 24±1 seconds. The provisions and interpretations of paragraph (a)(9) of this section apply.

(22) Begin the transient-engine cycle such that the first non-idle record of the cycle occurs at 25±1 seconds. The free idle is included in the 25±1 seconds.

(23) On the last record of the cycle, allow sampling system response times to elapse and cease sampling. For diesel engines, turn off the particulate sample pump(s), the gas flow measuring device(s) and any continuous analyzer system integrators and indicate the end of the test on the data collection medium.

(24) As soon as possible, transfer the "hot start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.1340–84. A stabilized reading of the exhaust sample on all analyzers shall be obtained with 20 minutes of the end of the sample collection phase of the test. For diesel engines, carefully remove each particulate sample filter from its holder and place in a clean petri dish and cover as soon as possible. Within 1 hour after the end of the hot start phase of the test, transfer the four particulate filters to the weighing chamber for post-test conditioning.

(25) The CVS and the engine may be turned off, if desired.

(b) The procedure in paragraph (a) of this section is designed for one sample bag for the cold-start portion and one for the hot-start portion. It is also permissible to use more than one sample bag per test portion.

(c) If a dynamometer test run is determined to be void, corrective action may be taken. The engine may then be

allowed to cool (naturally or forced) and the dynamometer test rerun per paragraph (a) or (b) of this section.

27. A new § 86.1339–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1339–87 Diesel particulate filter handling and weighing.

(a) At least 1 hour, but not more than 80 hours, before the test, place each filter in an open petri dish and place in a weighing chamber meeting the specifications of § 86.1312–87 for stabilization.

(b) At the end of the stabilization period, weigh each filter on a balance having a precision of one microgram. This reading is the tare weight and must be recorded (see § 86.1344–87(e)(18)).

(c) The filter shall then be stored in a covered petri dish or a sealed filter holder, either of which shall remain in the weighing chamber until needed for testing.

(d) If the filter is not used within 1 hour of its removal from the weighing chamber, it must be re-weighed before use.

(e) After the emissions test, and after the sample and back-up filters have been returned to the weighing room after being used, they must be conditioned for at least 1 hour but not more than 80 hours and then weighed. This reading is the gross weight of the filter and must be recorded (See § 86.1344–87(e)(18)).

(f) The net weight of each filter is its gross weight minus its tare weight. Should the sample on the filter contact the petri dish or any other surface, the test is void and must be re-run.

(g) A ratio of net weights will be determined by the following formula:

$$\text{Ratio of Net Weights} = \frac{(\text{Net Weight})_{\text{Primary Filter}}}{(\text{Net Weight})_{\text{Primary Filter}} + (\text{Net Weight})_{\text{Back-up Filter}}}$$

(1) If the ratio of net weights is greater than 0.95, then P_f is the net weight of the primary filter only.

(2) If the ratio of net weights is less than or equal to 0.95, then P_f is the sum of the net weights of the primary filter and the back-up filter.

28. A new §86.1343–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1342–87 Calculations; particulate exhaust emissions (diesels only).

(a) The final reported transient emission test results shall be computed by use of the following formula:

$$P_{WM} = \frac{1/7\ P_C + 6/7\ P_H}{1/7\ \text{BHP-hr}_C + 6/7\ \text{BHP-hr}_H}$$

Where:

(1) P_{WM} = Weighted mass particulate, grams per brake horsepower-hour.

(2) P_C = Mass particulate measured during the cold-start test, grams.

(3) P_H = Mass particulate measured during the hot-start test, grams.

(4) BHP-hr_C = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the cold-start test.

(5) BHP-hr_H = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the hot-start test.

(b) The mass of particulate for the cold-start test and the hot-start test is determined from the following equation when a heat exchanger is used (*i.e.*, no flow compensation):

$$P_{mass} = (V_{mix} + V_{ef}) \times \left(\frac{P_f}{V_{ef}} - \frac{P_{bf}}{V_{bf}} \right) \times (1 - 1/DF).$$

Where:

(1) P_{mass} = Mass of particulate emitted per test phase, grams per test phase. ($P_H = P_{mass}$ for the hot-start test and $P_C = P_{mass}$ for the cold-start test.

(2) V_{mix} = Total dilute exhaust volume corrected to standard conditions (528 °R (293 °K) and 760 mm Hg (101.3 kPa)), cubic feet per test phase. For a PDP-CVS:

$$V_{mix} = V_o \times \frac{N\ (P_B - P_A)\ (528\ ^\circ R)}{(760\ \text{mm Hg})\ (T_p)},$$

in SI units.

$$V_{mix} = V_o \times \frac{N(P_B - P_A)\ (293\ ^\circ K)}{(101.3\ \text{kPa})\ (T_p)},$$

Where:

(i) V_o = Volume of gas pumped by the positive displacement pump, cubic feet (cubic meters) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

(ii) N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

(iii) B_B = Barometric pressure, mm Hg (kPa).

(iv) P_A = Pressure depressions below atmospheric measured at the inlet to the positive displacement pump (during an idle mode), mm Hg (kPa).

(v) T_p = Average temperature of dilute exhaust entering the positive displacement pump during test, °R (°K).

(3) V_{ef} = Total volume of sample removed from the primary dilution tunnel, cubic feet at standard conditions.

(i) For a single-dilution system:

$$V_{ef} = \frac{V_{aa} \times (P_B + P_{ia}) \times 528\ ^\circ R}{T_{ia} \times 760\ \text{mm Hg}}.$$

Where:

(A) V_{aa} = Actual volume of dilute sample removed from the primary-dilution tunnel, cubic feet.

(B) P_B = Barometric presure, mm Hg.

(C) P_{ia} = Pressure elevation above ambient measured at the inlet to the dilute exhaust sample gas meter or flow instrumentation, mm Hg. (For most gas meters or flow instruments with unrestriced discharge, P_{ia} is negligible and can be assumed = 0.)

(D) T_{ia} = Average temperature of the dilute exhaust sample at the inlet to the gas meter or flow instrumentation, °R.

(E) V_{ef} may require correction according to § 86.1320–87(a)(6).

(ii) For a double-dilution system:

$V_{ef} = V_{vf} - V_{pf}$.

Where:

(A)

$$V_{vf} = \frac{V_{av} \times (P_B + P_{iv} \times 528\ ^\circ R}{T_{iv} \times 760\ \text{mm Hg}}$$

(B) V_{av} = Actual volume of double diluted sample which passed through the particulate filter, cubic feet.

(C) P_B = Barometric pressure, mm Hg.

(D) P_{iv} = Pressure elevation above ambient measured at the inlet to the

sample gas meter located at the exit side of the secondary-dilution tunnel, mm Hg. (For must gas meters with unrestricted discharge P_{iv} is negligible and can be assumed=0.)

(E) T_{iv}=Average temperature of the dilute exhaust sample at the inlet to the exit side gas meter or flow instrumentation, °R.

(F)

$$V_{pf}=\frac{V_{ap}\times(P_a+P_{ip})\times 528\ ^\circ R}{T_{ip}\times 760\ mm\ Hg}$$

(G) V_{ap}=Actual volume of secondary dilution air, cubic feet.

(H) P_a=Baromtric pressure, mm Hg.

(I) P_{ip}=Pressure elevation above ambient measured at the inlet to the sample gas meter or flow instrumentation located at the inlet side of the secondary dilution tunnel, mm Hg. (For most gas meters with unrestricted discharge P_{ip} is negligible and can be assumed = 0.)

(J) T_{ip}=Average temperature of the dilute exhaust sample at the inlet to the inlet side gas meter or flow instrumentation, °R.

(K) Both V_{vf} and V_{pf} may require correction according to § 86.1320–87(a)(6). These corrections must be applied before V_{sf} is determined.

(4) P_f=Mass of particulate on the sample filter (or sample and back-up filters if the back-up filter is required to be included, see § 86.1339–87(g) for determination), grams per test phase.

(5) P_{bf}=Net weight of particulate on the background particulate filter, grams.

(6)

$$V_{bf}=\frac{V_{ab}\times(P_a+P_{ib})\times 528°R}{T_{ib}\times 760\ mm\ Hg},$$

Where:

(i) V_{ab}=Actual volume of primary dilution air sampled by background particulate sampler, cubic feet.

(iii) P_{ib}=Pressure elevation above ambient measured at the inlet to the background gas meter or flow instrument, mm Hg. (For most gas meters or flow instruments with unrestricted discharge, P_{ib} is negligible and can be assumed = 0.)

(iv) T_{ib}=Average temperature of the background sample at the inlet to the gas meter or flow instrument, °R.

(7) For definition of DF see § 86.1342–84(d)(5).

29. A new § 86.1344–87 is proposed to be added to Subpart N, to read as follows:

§ 86.1344–87 Required information.

(a) The required test data shall be grouped into the following three general categories:

(1) *Engine set-up and descriptive data.* This data must be provided to the EPA supervisor of engine testing for each engine sent to the Administrator for confirmatory testing prior to the initiation of engine set-up. This data is necessary to ensure that EPA test personnel have the correct date in order to set up and test the engine in a timely and proper manner. This data is not required for tests performed by the manufacturers.

(2) *Pre-test data.* This data is general test data that must be recorded for each test. The data is of a more descriptive nature such as identification of the test engine, test site number, etc. As such, this data can be recorded at any time within 24 hours of the test.

(3) *Test-data.* This data is physical test data that must be recorded at the time of testing.

(b) All data may be supplied to the Administrator by punch cards, magnetic tape, or other electronic data processing means. Acceptable data formats and transmission techniques will be provided in the Application Format for Certification of the applicable model year.

(c) *Engine set-up data.* Because specific test facilities may change with time, the specific data parameters and number of items may vary. The Application Format for Certification for the applicable model year will specify the exact requirements. In general, the following types of data will be required:

(1) Engine manufacturer.
(2) Engine system combination.
(3) Engine code and CID.
(4) Engine identification number.
(5) Applicable engine model year.
(6) Engine fuel type.
(7) Recommended oil type.
(8) Exhaust pipe configuration, pipe sizes, etc.
(9) Curb or low idle speed.
(10) Dynamometer idle speed. (Automatic transmission engines only.)
(11) Engine parameter specifications such as spark timing, operating temperature, advance curves, etc.
(12) Engine performance data, such as maximum BHP, previously measured rated rpm, fuel consumption, governed speed, etc.
(13) Recommended start-up procedure.
(14) Maximum safe engine operating speed.
(15) Number of hours of operation accumulated on engine.
(16) Manufacturer's recommended inlet depression limit and typical in-use inlet depression level.
(17) Exhaust system.

(i) *Diesel engines.*

(A) Header pipe inside diameter.
(B) Tailpipe inside diameter.
(C) Minimum distance in-use between the exhaust manifold flange and the exit of the chassis exhaust system.
(D) Manufacturer's recommended maximum exhaust backpressure limit for the engine.
(E) Typical backpressure as determined by typical application of the engine.
(F) Minimum backpressure required to meet applicable noise regulations.

(ii) *Gasoline-fueled engines.* Typical in-use backpressure in vehicle exhaust system.

(d) *Pre-test data.* The following data shall be recorded, and reported to the Administrator for each test conducted for compliance with the provisions of 40 CFR Part 86, Subpart A:

(1) Engine-system combination.
(2) Engine identification.
(3) Instrument operator(s).
(4) Engine operator(s).
(5) Number of hours of operation accumulated on the engine prior to beginning the test sequence (Figure N84–10).
(6) Identification and specifications of test fuel used.
(7) Date of most recent analytical assembly calibration.
(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve number, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(e) *Test data.* The physical parameters necessary to compute the test results and ensure accuracy of the results shall be recorded for each test conducted for compliance with the provisions of 40 CFR Part 86, Subpart A. Additional test data may be recorded at the discretion of the manufacturer. Extreme details of the test measurements such as analyzer chart deflections will generally not be required on a routine basis to be reported to the Administrator for each test, unless a dispute about the accuracy of the data arises. The following types of data shall be required to be reported to the Administrator. The Application Format for Certification for the applicable model year will specify the exact requirements which may change slightly from year to year with the addition or deletion of certain itmes.

(1) Date and time of day.

(2) Test number.

(3) Engine intake air or test cell temperature.

(4) Barometric pressure. A central laboratory barometer may be used: *Provided,* that individual test cell barometic pressure are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(5) Engine intake or test cell and CVS dilution air humidity.

(6) Maximum torque versus speed curve as determined in § 86.1332–84, with minimum and maximum engine speeds, and a description of the mapping technique used.

(7) Measured maximum horsepower and maximum torque speeds.

(8) Measured maximum horsepower and torque.

(9) Measured high idle engine speed (governed diesel engines only).

(10) Measured fuel consumption at maximum power and torque (diesel engines only).

(11) Cold-soak time interval and cool down procedures.

(12) Temperature set point of the heated continuous analysis system components (if applicable).

(13) Test cycle validation statistics as specified in § 86.1341–84 for each test phase (cold and hot).

(14) Total CVS flow rate with dilution factor for each test phase (cold and hot).

(15) Temperature of the dilute exhaust mixture and secondary dilution air (in the case of a double dilution system) at the inlet to the respective gas meter(s) or flow instrumentation used for particulate sampling (diesels only).

(16) The maximum temperature of the dilute exhaust mixture immediately before the particulate filter (diesels only).

(17) Sample concentrations (background corrected) for HC, CO, CO_2, and NO_x for each test phase (cold and hot).

(18) The stabilized per-test weight and post-test weight of each particulate sample and back-up filter (diesels only).3213

(19) Brake specific emissions (g/BHP-hr) for HC, CO and NO_x for each test phase (cold and hot).

(20) The weighted (cold and hot) brake specific emissions (g/BHP-hr) for the total test.

(21) The weighted (cold and hot) carbon balance or mass-measured brake specific fuel consumption for the total test.

(22) The number of hours of operation accumulated on the engine after completing the test sequences described in Figure N84–10.

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Monday
October 15, 1984

Part III

Environmental Protection Agency

40 CFR Part 300

Amendment to National Oil and Hazardous Substances Contingency Plan: The National Priorities List; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[OSWER-FRL-2690-6]

Amendment to National Oil and Hazardous Substances Contingency Plan: The National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing the second update to the National Priorities List ("NPL"). The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually, and today's notice proposes the second such revision.

DATES: Comments may be submitted on or before December 14, 1984.

ADDRESSES: Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public docket for the update to the NPL will contain Hazard Ranking System (HRS) score sheets for all sites on this proposed update, as well as a "Documentation Record" for each site describing the information used to compute the scores. The main public docket is located in Room S-325 of Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for copies of documents in the docket should be directed to EPA Headquarters, although the same documents will be available for viewing in the EPA Regional Offices. In addition, the background data relied upon by the Agency in calculating or evaluating HRS scores are retained only in the Regional Offices. Such data in EPA files may be obtained upon request. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for requesting these data sources. Addresses for the Regional Office dockets are:

Peg Nelson, Region I, U.S. EPA Library, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791
Audrey Thomas, Region II, U.S. EPA Library, 26 Federal Plaza, 10th Floor, New York, NY 10278, 212/264-2881
Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597-0580
Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Courtland Street, NE, Atlanta, GA 30365, 404/881-4216
Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022
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SUPPLEMENTARY INFORMATION:

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I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or the "Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA Section 101 (23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA Section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable at least 400 sites be designated individually. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is proposing the addition of 238 sites to the NPL.

EPA is proposing to include on the NPL sites at which there are or have been releases or threatened releases of designated hazardous substances or of any "pollutant or contaminant." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d. Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgement of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site on the NPL is intended primarily to guide EPA in determining which sites warrant further investigation designed to assess the nature and extent of the public health

and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions or of actions brought pursuant to section 107(a)(4)(B) of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. Neither can the HRS itself determine the appropriate remedy for a site. The information collected to develop HRS scores to select sites for the NPL is not sufficient in itself to determine the appropriate remedy for a particular site. After a site has been included on the NPL, EPA generally will rely on further, more detailed studies conducted at the site to determine what response, if any, is appropriate. These studies will take into account, among other things, response actions that have been taken by potential responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substance Response Trust Fund established under CERCLA, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. Also, it is possible that EPA will conclude after further analysis that no action is needed at a site because the site does not present a significant threat to public health, welfare or the environment.

III. NPL Update Process and Schedule

Pursuant to section 105(8)(B) of CERCLA, 42 U.S.C. 9605(8)(B), EPA is required to establish, as part of the NCP for responding to releases of hazardous substances, a NPL of sites of such releases. The principal purpose of this notice is to propose the addition of 238 new sites to the NPL which have HRS scores of 28.50 or above. In addition, the final NPL (49 FR 37070, September 21, 1984) is included to indicate the appropriate status codes for response and cleanup activities at these sites. These codes are explained in greater detail in section IV of this notice.

CERCLA requires that the NPL be revised at least once per year. Accordingly, EPA added 128 sites to the final NPL on September 21, 1984 (49 FR 37070). The majority (123) of those sites were proposed on September 8, 1983 (48 FR 40674) as the first update to the NPL. Today's notice proposes the second such revision, which the Agency expects to promulate within one year of this announcement. For each NPL revision, EPA informs the States of the closing dates for submission of candidate sites to EPA. In addition to these periodic updates, EPA believes it may be desirable in rare instances, because of urgency and needed corrective action, to propose separately the addition of individual sites on the NPL as it did in the case of the Times Beach, Missouri, (48 FR 9311, March 4, 1983).

As with the establishment of the initial NPL and subsequent revisions to the NPL, States have the primary responsibility for selecting and scoring sites that are candidates for inclusion on the NPL using the HRS (Appendix A to the NCP, 47 FR 31223, July 16, 1982) and submitting the candidate sites to the EPA Regional Offices. The Regional Offices then conduct a quality control review of the States' candidate sites. After conducting this review, the EPA Regional Offices submit candidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

In today's proposal, the "Proposed Additions" consist of sites not currently on the NPL that the Agency is proposing to add to the NPL. The "Proposed Additions" are contained in the list immediately following this preamble. The additions are presented in two separate lists, non-Federal and Federal facility sites.

Public Comment Period

EPA requests public comment on each of the sites it is proposing to add to the NPL and will accept such comments for 60 days following the date of publication of this notice in the **Federal Register**. HRS scoring sheets and a "Documentation Record" for all sites proposed to be added to the NPL are available for inspection and copying in the NPL docket located in Washington, D.C. The same documents will be available for viewing in the EPA Regional offices for sites located in that particular Region. After considering the relevant comments received during the comment period and determining the final score for each proposed site, the Agency will add to the current NPL all sites that meet EPA's criteria for listing (i.e., sites with HRS scores at or above 28.50 or those designated as a State's top priority site).

IV. Contents of the Proposed Second NPL Update

Each entry on the proposed second NPL update contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. Each site EPA is proposing to add is placed by score in a group corresponding to the groups of 50 sites presented within the final NPL (49 FR 37070 September 21, 1984). Thus, the sites in group 1 of the proposed update have scores that fall within the range of scores covered by the first 50 sites on the final NPL. Each entry on this proposed update and at sites already on the NPL is accompanied by one or more notations referencing the status of response and cleanup activities at the site at the time this list was prepared. This site status and cleanup information are described briefly below.

In the past, EPA categorized the NPL sites based on the type of response at each site (Fund-financed, enforcement and/or voluntary action). This second NPL update will expand the prior categorization system in two ways. First, Federal enforcement actions are separated from State enforcement actions. Second, the status of site cleanup activities is designated by three new cleanup status codes. EPA is including the cleanup status codes to identify sites where significant response activities are underway or completed. The cleanup status codes on this NPL update are included in response to public requests for information regarding actual site cleanup activities.

Response Categories

The following response categories are used to designate the type of response underway. One or more categories may apply to each site.

Voluntary or Negotiated Response (V). Sites are included in this category if private parties have started or completed response actions pursuant to settlement agreements or consent decrees to which EPA or the State is a party. This category includes privately-financed remedial planning, removal actions, initial remedial measures and/or remedial actions.

Federal and/or State Response (R). The Federal and/or State Response category includes sites at which EPA or State agencies have started or completed response actions. These include removal actions, non-enforcement remedial planning, initial remedial measures, and/or remedial actions under CERCLA [NCP, § 300.66(f)–(i) 47 FR 31217, July 16, 1982]. For purposes of assigning a category, the response action commences when EPA obligates funds.

Federal Enforcement (F). This category includes sites where the United States has filed a civil complaint (including cost recovery actions) or issued an administrative order. It also includes sites at which a Federal court has mandated some form of response action following a judicial proceeding. All sites at which enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

A number of sites on the NPL are the subject of investigations or have been referred to the Department of Justice for possible enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites are not included in this category, but are included under "Category to be Determined."

State Enforcement (S). This category includes sites where a State has filed a civil complaint or issued an administrative order. It also includes sites at which a State court has mandated some form of response action following a judicial proceeding. Sites where State enforcement-lead remedial investigations and feasibility studies are underway are also included in this category.

It is assumed that State policy precludes the release of information concerning possible enforcement actions until such action has been formally taken. Accordingly, sites subject to possible State legal action are not included in this category, but are included under "Category to be Determined."

Category to be Determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress at sites in this category. EPA or a State may be evaluating the type of response action to undertake, or an enforcement case may be under consideration. Responsible parties may be undertaking cleanup actions that are not covered by a consent decree or an administrative order.

Cleanup Status Codes

EPA has decided to indicate the status of Fund-financed or private party cleanup activities underway or completed at proposed NPL sites. Fund-financed response activities which are coded include: significant removal actions, initial remedial measures, source control remedial actions, and offsite remedial actions. The status of cleanup activities conducted by responsible parties under a consent decree, court order, or an administrative order also is coded. Remedial planning activities or engineering studies do not receive a cleanup status code.

Many sites listed on the NPL are cleaned up in stages or "operable units." For purposes of cleanup status coding, an operable unit is a discrete action taken as part of the entire site cleanup that significantly decreases or eliminates a release, threat of release, or pathway of exposure. One or more operable units may be necessary to complete the cleanup of a hazardous waste site. Operable units may include removal actions taken to stabilize deteriorating site conditions, initial remedial measures, and remedial actions. A simple removal action (constructing fences, or berms or lowering free-board) that does not eliminate a significant release, threat of release, or pathway of exposure is not considered an operable unit for purposes of cleanup status coding.

The following cleanup status codes (and definitions) are used to designate the status of cleanup activities at proposed sites on the NPL. Only one code is necessary to denote the status of actual cleanup activity at each site since the codes are mutually exclusive.

Implementation Activities Are Underway for One or More Operable Units (I). Field work is in progress at the site for implementation of one or more removal or remedial operable units, but no operable units are completed.

Implementation Activities for One or More (But Not All) Operable Units Are Completed. Implementation Activities May be Underway for Additional Operable Units (O). Field work has been completed for one or more operable units, but additional site cleanup actins are necessary.

Implementation Activities for all Operable Units Are Completed (C). All actions agreed upon for remedial action at the site have been completed and performance monitoring has commenced. The site will be considered for deletion from the NPL subsequent to completion of the performance monitoring and preparation of a deletion recommendation. Further site activities could occur if EPA considers such activities necessary.

V. Deleting Sites From the NPL

There is no specific statutory requirement that the NPL be revised to delete sites. However, EPA has decided to consider deleting sites to provide incentives for cleanup to private parties and public agencies. Furthermore, deleting sites allows the Agency to give notice that the sites have been cleaned up and gives the public an opportunity to comment on those actions.

EPA will delete a previously promulgated NPL site after EPA has determined that it has satisfied one or more of the following criteria:

(1) EPA, in consultation with the State, has determined that responsible parties have completed all appropriate response actions;

(2) EPA, in consultation with the State, has determined that all appropriate Fund-financed response actions have been completed and that no further cleanup by responsible parties is appropriate;

(3) Based on a remedial investigation, EPA, in consultation with the State, has determined that the facility poses no significant threat to public health, welfare, or the environment and, therefore, construction of remedial measures is not appropriate.

These criteria are the only deletion criteria EPA has developed to date. These criteria constitute guidance, not regulations. They may be revised or supplemented if experience indicates that other factors should be taken into account. At this time, however, it appears that these three criteria are adequate.

The Agency isssued a guidance memorandum on March 27, 1984, describing these criteria and interim procedures for deleting sites from the NPL. This document is available in the EPA dockets (see addresses section of this announcement). In deleting sites from the NPL, EPA will use the same Federal Register notice and comment procedures that were used for placing sites on the NPL.

The NCP currently restricts expenditures of Trust Fund monies to sites on the NPL. The Agency intends to modify the NCP to allow EPA to return to a site and expend Fund monies as warranted for operation and maintenance costs, continued monitoring, or correction of any failures of the remedy even though the site will have actually been deleted from the NPL. If sites are proposed for deletion before the NCP revisions have been promulgated, the Agency will establish a

"deletion category" for the NPL. This category will be explicitly denoted as containing sites at which the Agency has determined that one or more of the deletion criteria described above have been satisfied. However, these sites would not actually be deleted from the NPL. Once the NCP modifications are promulgated, the Agency will be able to delete a site from the NPL and spend additional Fund monies if conditions warrant.

The Agency is interested in the public reaction to these deletion procedures. Specifically, the Agency is interested in: (1) The desirability of maintaining the **Federal Register** notice and comment procedures for deletions that are currently used for placing sites on the NPL; and (2) the desirability of continuing to print, on a separate list, the names of sites deleted from the NPL at the time of each update. The Agency believes that including the names of deleted sites on the NPL may provide important information to the public on the final disposition of these sites and may result in favorable publicity for parties who have cleaned up sites on the NPL.

VI. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of release. In addition, as a matter of policy , EPA may or may not choose to respond to certain types of releases because other Federal agencies have adequate authority to respond. This section discusses the inclusion of such releases on the NPL.

Releases from Federal Facility Sites

CERCLA section 111(e)(3) prohibits use of the Funds for remedial actions at Federally owned facilities. Previously, EPA did not list any sites on the NPL where the release resulted solely from a Federal facility, regardless of whether contamination remained onsite or had migrated ofsite. EPA incorporated this position into the NCP (section 300.66(e)(2), 47 FR 31215, July 16, 1982); an also in the promulgation of the first NPL (48 FR 40662, September 8, 1983).

Public comments received from previously proposed NPL announcements suggested including Federal facilities, and the Agency now believes that it is appropriate to include Federal facility sites on the NPL when such facilities meet the criteria for inclusion. Federal facility sites will be listed when the HRS scores are equal to or above 28.50 so as to focus public attention and appropriate resources on the most serious sites, even though they are not eligible for Fund-financed remedial action.

For this update, Federal sites will be presented in a separate NPL section with Federal site displayed in scoring groups equivalent to the groups shown in the non-Federal NPL. As discussed in 48 FR 40662, September 8, 1984, EPA previously has listed sites that formerly were owned by the Federal government, and non-Federally owned sites where the Federal government may have contributed to a release. EPA intends to continue this policy by listing such site on the non-Federal NPL. The Federal facility section of the NPL will only contain sites where the release appears to result solely from a Federal facility, regardless of whether contamination remained on site or has migrated offsite.

Response categories and cleanup status codes also will be assigned for Federal facility sites, and these will be essentially the same categories and codes used for non-Federal sites. A Federal agency response at a Federal facility site will be indicated by the (R) category. When the (R) category does not apply to a Federal facility site, other Federal agency activities at that site, such as evaluating the appropriate response to undertake, will be indicated by the (D) category. Cleanup codes will be assigned to Federal facility sites in the same manner as they are to non-Federal sites.

EPA is preparing a proposed amendment in section 300.66(e)(2) of the NCP to allow the listing of Federal facility sites on the NPL. For this proposal, EPA scored those Federal facilities identified by Federal agencies and the States as NPL candidates where sufficient information existed to apply the HRS. However, EPA does not intend to promulgate any of the sites proposed today until such time as the NCP amendment is final. In the meantime, the Agency is continuing work with Federal agencies to investigate potential problem Federal sites and to implement corrective measures at Federal sites.

Releases of Pesticides Registered Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

This proposal includes six sites in South Central Oahu, Hawaii, where parts of the basal aquifer have been contaminated by pesticides including ethylene dibromide (EDB), dibromochloropropane (DBCP), and trichloropropane (TCP), a likely contaminant of the pesticide D-D (which contains 1,2-dichloropane, 1,3-dichloropene and related C3 compounds). These pesticides are all soil fumigants that have been used as nematocides in Oahu pineapple fields. All were registered under FIFRA at the time of their use in Oahu. We do not believe these pesticides are being used in Hawaii any longer. EDB's soil fumigation use has been cancelled, and EPA has proposed to cancel the sole remaining use of DBCP (pineapples) in the United States. D-D is no longer being produced, although it is still Federally registered. The most likely source of the contamination by DBCP and TCP was their use as pesticides, although it is less clear that the contamination by EDB resulted solely from its agricultural use.

These six sites are the first such sites proposed to be added to the NPL on the basis of releases which appear to originate from the application of pesticides. Insecticides and similar products are used extensively throughout the United States. The application of the HRS to public and private ground water systems throughout the country could possibly result in the listing of additional similar sites in a number of other States. At this time, however, the Agency has little data from which to predict the number of similar problems or the degree of risk posed by them, compared with the risks posed by other identified sites.

EPA is concerned that listing these sites may set important precedents with currently unknown implications for the future direction of CERCLA. As CERCLA's scope is broad, EPA wants to insure that its efforts under CERCLA are focused on the most significant risks and on problems that cannot be adequately addressed under EPA's other statutory authorities. Therefore, the Agency is interested in public comment for consideration in evaluating what alternative statutory tools or other approaches are most appropriate for dealing with these problems. Other approaches on which EPA wants to receive comment are those which would assure that only sites posing significant problems are included on the NPL. EPA plans to consider these issues. If the Agency decides that problems arising from pesticide use are better addressed outside the frame-work of CERCLA, it may decide as a matter of policy not to list the sites on the NPL.

EPA is planning a monitoring survey to evaluate the frequency and severity of contamination of ground water by pesticides. In addition, the Agency has initiated a special data call-in under FIFRA to evaluate the potential for ground water contamination of many pesticides. Pending the results of these information gathering efforts, the extent of this problem is not fully understood.

EPA has the authority to include sites on the NPL where contamination from

pesticide application has occurred (or has the potential to occur). The definition of "release" in section 101(22) of CERCLA is very broad; and whereas it excludes the "normal application of a fertilizer," it does not contain a similar exclusion for the application of pesticides. Additional review of CERCLA gives no suggestion that EPA authority to list such pesticide sites on the NPL or to take response action is limited. Section 107(i) limits EPA's ability to recover costs from releases associated with pesticide use, but CERCLA does not contain a similar limitation on EPA's ability to respond. Thus, there is no statutory restriction on the use of money from the CERCLA Trust Fund to clean up sites where public health or the environment has been threatened as a result of the application of pesticides. At the same time the Agency is not obliged to exercise response authority whenever a site is included on the NPL.

There are several legal authorities by which the hazards associated with contamination of ground water by pesticide use can be addressed; CERCLA enforcement actions and some CERCLA response actions, as well as actions under other laws, do not depend on a site's placement on the NPL. For example, FIFRA provides authority to require manufacturers to submit test results with which the Agency can evaluate hazards, including health effects and environmental fate and transport. FIFRA also provides authority to limit or prohibit use of pesticides when the risk associated with use outweigh the benefits of use. Under the Safe Drinking Water Act, EPA can issue health advisories or specify maximum contaminant limits in public water systems.

CERCLA authorizes Fund-financed response actions such as cleaning up acquifers or providing alternate drinking water supplies. Certain response actions taken with CERCLA trust fund money, however, are authorized only where a site has been listed on the NPL. While listing a site on the NPL is necessary to take these actions, it does not require them. After a site has been included on the NPL, EPA generally will rely on further, more detailed studies conducted at the site to determine what response, if any, is appropriate. The authority to compel private responsible parties to abate or clean up releases of pollutants and contaminants provided by CERCLA is not limited to sites listed on the NPL.

Releases From Sites Having Interim Status or Permits Under the Resource Conservation and Recovery Act (RCRA)

As stated in EPA's first NPL final rulemaking (48 FR 40658, September 8, 1983), both CERCLA and the Resource Conservation and Recovery Act (RCRA) contain authorities applicable to hazardous waste facilities. These authorities overlap for certain sites. EPA is adhering to its established policy that, where a site consists only of "regulated units" of a RCRA facility operating pursuant to a permit or interim status, it will not be included on the NPL but, to the extent possible, instead will be addressed under the authorities of RCRA. The RCRA Land Disposal Regulations (40 CFR Parts 122, 260, 264, and 265) give EPA authority to control actives sites through a broad program which includes monitoring, compliance inspections, penalties for violations, and requirements for post-closure plans and financial responsibility.

RCRA regulations require a contingency plan for each facility. The regulations also contain groundwater protection standards (40 CFR Part 264, Subpart F) that cover detection monitoring, compliance monitoring (if groundwater impacts are identified) and corrective action for releases within the site boundaries. These monitoring and corrective action standards apply to all "regulated units" of RCRA facilities, i.e., any part of the waste treatment, storage, or disposal operation within the boundaries of the facility that accepted waste after January 26, 1983, the effective date of the Land Disposal Regulations (47 FR 32349, July 26, 1982). Even if the unit ceases operation after this time, EPA has the authority to require it to obtain a permit, and the monitoring and corrective action requirements could therefore be enforced by this mechanism.

Given this authority to ensure cleanup of regulated units of RCRA facilities, such facilities generally are not included on the NPL. If the facility is abandoned or lacks sufficient resources and the RCRA corrective action requirements cannot be enforced, however, EPA will consider listing the site on the NPL for possible response under CERCLA. This policy is applicable not only to sites subject to EPA-administered hazardous waste programs but also to sites in States that administer programs approved by EPA. Even in the latter instance, close Federal control is ensured by the comprehensivenes of the program elements required of all State programs coupled with EPA's authority to enforce State program requirements directly if the State fails to do so. EPA does, however, consider eligible for listing on the NPL those RCRA facilities at which a significant portion of the release appears to come from "non-regulated units" of the facility, that is, portions of the facility that ceased operation prior to January 26, 1983. However, pending amendments to RCRA would extend RCRA jurisdiction to releases from non-regulated units at regulated facilities. Therefore, if the amendments are enacted, the Agency will consider modifying the existing policy of including such sites on the NPL at that time.

VII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below and therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. The EPA has conducted a preliminary analysis of the economic implications of today's proposed amendment to the NCP. The EPA believes that the kind of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA. The Agency believes the anticipated economic effects related to proposing the addition of 244 sites to the NPL can be characterized in terms of the conclusions of the earlier regulatory impact analysis. At that time, the Agency noted that a more extensive analysis of the economic impacts of the NCP would be prepared in the future and would accompany publication of future major amendments to the NCP. The Agency expects to propose major amendments to the NCP in the future and a more comprehensive economic analysis will be made available for comment at that time.

Costs

The EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake response action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site response result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in a listing proposed rulemaking. This action was submitted

to the Office of Management and Budget (OMB) for review.

The major events that follow the proposed listing of a site on the NPL are a responsible party search and a Remedial Investigation/Feasibility Study (RI/FS) which determines whether response actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States on a 90%:10% basis (50%:50% in the case of State-owned sites). Additionally, States assume all costs for O&M activities after the first year at sites involving Fund-financed remedial actions.

Rough estimates of the average per-site and total costs associated with each of the above activities are presented below. At this time EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the successfulness of cost recovery actions where such actions are brought.

Cost category	Average total cost per site [1]
RI/FS	$800,000
Remedial Design	440,000
Remedial Action	7,200,000
Initial Remedial Measures (IRM) at 10% of sites	80,000
Net Present Value of O&M (over 30 years)	4,100,000

[1] 1984 U.S. Dollars.

Source: OERR budget figures (assumes $6.5 million Federal share for remedial action).

Costs to States associated with today's proposed amendment arise from the statutory State cost-share requirement of: (1) 10 percent of remedial implementation (remedial action and IRM) and O&M costs at privately-owned sites; and (2) 50 percent of the remedial planning (RI/FS and remedial design), remedial implementation and O&M costs at State or locally-owned sites. Using the assumptions developed in the 1982 RIA, we can assume that 90 percent of the 208 non-Federal sites proposed to be added to the NPL in this amendment will be privately-owned and 10 percent will be State or locally-owned. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 208 non-Federal sites would be $344 million.

The act of listing a hazardous waste site on the final NPL does not necessarily cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary, and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of response costs, but the Agency considers such factors as: the volume and nature of the wastes contributed; the strength of the evidence linking the wastes at the site to the parties; ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this proposed amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's proposed amendment come in the form of increased health and environmental protection as a result of increased public awareness of potential hazards and the additional response actions at hazardous waste sites. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of the additional NPL remedies, there will be lower human exposure to high risk chemicals, and higher quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that Funds expended for a response generates employment, directly or indirectly (through purchased materials).

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities the Act refers to small businesses, small governmental jurisdictions, and non-profit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The proposed listing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of clean-up costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate a number of businesses affected. In addition, we cannot define what is "small" for the wide variety of potentially affected small entities. Because small entities that could be affected by this rulemaking would come from any industrial sector and could include governmental units, it is not possible to articulate a meaningful definition of small entities.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the proposed listing of these 238 sites, or the NPL as a whole, to have a significant economic impact on small business as a whole.

In any case, economic impacts would only occur through enforcement and cost recovery actions which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay. The impacts (from cost-recovery) on small governments and non-profit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental

relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

It is proposed to amend Appendix B of 40 CFR Part 300 by adding the following sites to the National Priorities List:

Dated: October 2, 1984.

William D. Ruckelshaus,

Administrator.

NATIONAL PRIORITIES UPDATE LIST
GROUP 1

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	UT	Sharon Steel (Midvale Smelter)	Midvale	D	
08	UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 2

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
04	FL	Peak Oil Co./Bay Drum Co.	Tampa	S	
05	OH	Industrial Excess Landfill	Uniontown	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 3

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
10	WA	Midway Landfill	Kent	D	
06	TX	Bailey Waste Disposal	Bridge City	D	
05	MI	Thermo-Chem, Inc.	Muskegon	D	
09	CA	Van Waters & Rogers, Inc.	San Jose	D	
05	MN	Pine Bend/Crosby American Lf	Dakota County	D	
07	IA	Chemplex Co.	Clinton/Camanche	D	
04	NC	NC State U (Lot 86, Farm Unit #1)	Raleigh	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 4

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
05	OH	General Electric(Coshocton Plant)	Coshocton	D	
02	NY	Liberty Industrial Finishing	Farmingdale	D	
06	TX	Brio Refining Co., Inc.	Friendswood	D	
02	NJ	Glen Ridge Radium Site	Glen Ridge	R	O
02	NJ	Montclair/West Orange Radium Site	Montclair/W Orange	R	O
04	NC	Celanese(Shelby Fiber Operations)	Shelby	D	
05	IN	International Minerals (E. Plant)	Terre Haute	D	
05	MI	Motor Wheel, Inc.	Lansing	D	
06	TX	Stewco, Inc.	Waskom	D	
05	OH	Alsco Anaconda	Gnadenhutten	D	
02	NY	Johnstown City Landfill	Town of Johnstown	D	
03	PA	Hunterstown Road	Straban Township	V F	O
02	NY	Hooker Chemical/Ruco Polymer Corp	Hicksville	D	
07	NE	Lindsay Manufacturing Co.	Lindsay	V S	O
09	CA	Operating Industries, Inc. Lf	Monterey Park	S	
04	FL	Pratt & Whitney Air/United Tech.	West Palm Beach	D	
08	CO	Eagle Mine	Minturn/Redcliff	R	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 5

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Lee Chemical	Liberty	R	I
05	MI	Torch Lake	Houghton County	D	
01	RI	Central Landfill	Johnston	F	
03	PA	Domino Salvage Yard	Valley Township	V R S	O
08	UT	Mayflower Mountain Tailings Ponds	Wasatch County	D	
03	WV	Mobay Chemical (New Martinsville)	New Martinsville	D	
03	PA	Whitmoyer Laboratories	Jackson Township	D	
03	PA	Shriver's Corner	Straban Township	V F	O
03	VA	Culpeper Wood Preservers, Inc.	Culpeper	F S	
05	MN	U of Minnesota Rosemount Res Cent	Rosemount	D	
04	MS	Newsom Brothers/Old Reichhold	Columbia	R	O
02	NY	Tronic Plating Co., Inc.	Farmingdale	D	
02	NJ	Waldick Aerospace Devices, Inc.	Wall Township	S	
08	CO	Smuggler Mountain	Aspen	D	
09	CA	Alviso Dumping Areas	Alviso	D	
10	OR	Martin-Marietta Aluminum Co.	The Dalles	D	
08	CO	Uravan Uranium (Union Carbide)	Uravan	D	
05	MN	Oak Grove Sanitary Landfill	Oak Grove Township		

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NATIONAL PRIORITIES UPDATE LIST
GROUP 6

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
10	WA	Quendall Terminal	Renton	D	
05	IN	Fort Wayne Reduction Dump	Fort Wayne	D	
05	IL	Pagel's Pit	Rockford	D	
03	MD	Mid-Atlantic Wood Preservers, Inc	Harmans	V S	O
07	NE	Hastings Ground Water Contamin	Hastings	D	
05	MN	Kummer Sanitary Landfill	Bemidji	R	
09	HI	Mililani Wells	Oahu	D	
09	CA	Monolithic Memories, Inc.	Sunnyvale	D	
06	TX	Odessa Chromium #1	Odessa	D	
06	TX	Odessa Chromium #2 (Andrews Hgwy)	Odessa	D	
09	CA	San Fernando Valley (Area 1)	Los Angeles	D	
09	CA	San Fernando Valley (Area 2)	Los Angeles/Glendale	D	
09	CA	San Fernando Valley (Area 3)	Glendale	D	
09	CA	Teledyne Semiconductor	Mountain View	D	
09	CA	Thompson-Hayward Chemical Co.	Fresno	S	
09	HI	Waiawa Shaft	Oahu	D	
04	NC	Jadco-Hughes Facility	Belmont	D	
02	NY	Applied Environmental Services	Glenwood Landing	S	
09	AZ	Motorola, Inc.(52nd Street Plant)	Phoenix	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 7

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Quality Plating	Sikeston	D	
05	MI	Roto-Finish Co., Inc.	Kalamazoo	D	
10	WA	Toftdahl Drums	Brush Prairie	D	
09	CA	Westinghouse (Sunnyvale Plant)	Sunnyvale	D	
02	NY	Nepera Chemical Co., Inc.	Maybrook	D	
09	CA	FMC Corp. (Fresno Plant)	Fresno	D	
03	VA	IBM Corp. (Manassas Plant Spill)	Manassas	D	
09	HI	Kunia Wells I	Oahu	D	
09	HI	Kunia Wells II	Oahu	D	
02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead	D	
06	TX	Sol Lynn/Industrial Transformers	Houston	D	
09	HI	Waipahu Wells	Oahu	D	
07	KS	National Industrial Environ Serv	Furley	S	
05	IL	Kerr-McGee (Reed-Keppler Park)	West Chicago	D	
05	IL	Kerr-McGee (Kress Creek)	DuPage County	D	
09	CA	Southern Pacific Transportation	Roseville	S	
06	TX	South Cavalcade Street	Houston	D	
05	WI	National Presto Industries, Inc.	Eau Claire	D	
05	IL	Petersen Sand & Gravel	Libertyville	R	
08	MT	Idaho Pole Co.	Bozeman	D	
07	MO	Findett Corp.	St. Charles	V F	I
05	MN	Windom Dump	Windom	D	
05	IL	Kerr-McGee (Residential Areas)	West Chicago	D	
05	IL	NL Industries/Taracorp Lead Smelt	Granite City	V F S	
05	MI	E.I. Du Pont (Montague Plant)	Montague	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 8

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
09	CA	Advanced Micro Devices, Inc.	Sunnyvale	S	
04	NC	Bypass 601 Ground Water Contam.	Concord	D	
02	NJ	Cinnaminson Ground Water Contam	Cinnaminson Township	D	
05	MI	Lenawee Disposal Service, Inc. Lf	Adrian	D	
09	CA	Raytheon Corp.	Mountain View	D	
07	MO	Solid State Circuits, Inc.	Republic	R S	I
07	NE	Waverly Ground Water Contamin	Waverly	D	
05	MI	Michigan Disposal (Cork St Lf)	Kalamazoo	D	
09	CA	Fairchild Camera (S San Jose Plt)	South San Jose	D	
03	PA	Brown's Battery Breaking	Shoemakersville	R	C
02	NY	SMS Instruments, Inc.	Deer Park	D	
02	NY	Byron Barrel & Drum	Byron	R	I
02	NY	Anchor Chemicals	Hicksville	D	
05	MI	Waste Management-Mich (Holland)	Holland	D	
06	TX	North Cavalcade Street	Houston	D	
08	MT	Burlington Northern(Somers Plant)	Somers	D	
05	IN	Neal's Dump (Spencer)	Spencer	F S	
03	PA	Westinghouse Elevator Co. Plant	Gettysburg	D	O
03	PA	Middletown Air Field	Middletown	D	I
03	WV	Ordnance Works Disposal Areas	Morgantown	D	O
02	NY	Endicott Village Well Field	Village of Endicott	D	
09	CA	National Semiconductor Corp.	Santa Clara	D	
09	CA	San Fernando Valley (Area 4)	Los Angeles	D	
02	NY	Suffern Village Well Field	Village of Suffern	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 9

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
03	VA	Avtex Fibers, Inc.	Front Royal	D	
02	NY	Katonah Municipal Well	Town of Bedford	D	
09	HI	Waipio Heights Wells II	Oahu	D	
04	TN	American Creosote Works, Inc.	Jackson	R	O
05	IL	Kerr-McGee (Sewage Treat Plant)	West Chicago	D	
02	NY	Preferred Plating Corp.	Farmingdale	D	
08	UT	Monticello Rad Contaminated Props	Monticello	D	
01	MA	Salem Acres	Salem	D	
04	FL	Davidson Lumber Co.	South Miami	S	O
09	CA	J.H. Baxter Co.	Weed	S	
10	WA	Mica Landfill	Mica	D	
02	NY	Clothier Disposal	Town of Granby	D	
03	PA	Ambler Asbestos Piles	Ambler	V R F S	O
03	VA	L.A. Clarke & Son	Spotsylvania County	S	
05	IL	Sheffield (U.S. Ecology, Inc.)	Sheffield	D	
09	CA	Beckman Instruments (Porterville)	Porterville	D	
05	MI	Lacks Industries, Inc.	Grand Rapids	D	
03	MD	Southern Maryland Wood Treating	Hollywood	D	
04	FL	Dubose Oil Products Co.	Cantonment	S	
09	CA	Lorentz Barrel & Drum Co.	San Jose	S	
03	PA	Modern Sanitation Landfill	Lower Windsor Twp	D	
05	MI	North Bronson Industrial Area	Bronson	D	
09	CA	Montrose Chemical Corp.	Torrance	F	
10	WA	Northwest Transformer	Everson	D	
08	UT	Olson/Neihart Reservoir	Wasatch County	D	
02	NY	North Sea Municipal Landfill	North Sea	D	
09	CA	Louisiana-Pacific Corp.	Oroville	D	
05	MI	South Macomb Disposal (Lf 9 & 9A)	Macomb Township	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 10

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
05	MN	Adrian Municipal Well Field	Adrian	S	
02	NY	Haviland Complex	Town of Hyde Park	D	
02	NY	Hertel Landfill	Plattekill	D	
09	CA	Marley Cooling Tower Co.	Stockton	D	
05	MN	Olmsted County Sanitary Landfill	Oronoco	D	
07	KS	Strother Field Industrial Park	Cowley County	R	I
02	NJ	Fried Industries	East Brunswick Twp	D	
02	NY	Goldisc Recordings, Inc.	Holbrook	D	
02	NJ	Lodi Municipal Well	Lodi	D	
02	NY	Sarney Farm	Amenia	D	
01	MA	Rose Disposal Pit	Lanesboro	F S	
05	OH	Van Dale Junkyard	Marietta	S	
02	NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby	V	
02	NY	Volney Municipal Landfill	Town of Volney	V	
04	KY	Smith's Farm	Brooks	R	O
07	KS	Big River Sand Co.	Witchita	V S	O
05	WI	Stoughton City Landfill	Stoughton	D	
06	TX	Crystal City Airport	Crystal City	D	
02	NY	Cortese Landfill	Vil of Narrowsburg	S	
04	FL	City Industries, Inc.	Orlando	R F S	O
09	CA	Applied Materials	Santa Clara	D	
09	CA	Fairchild Camera (Mountain View)	Mountain View	D	
09	CA	Intel Corp. (Mountain View Plant)	Mountain View	D	
09	CA	Intel Corp. (Santa Clara III)	Santa Clara	D	
09	CA	Intel Magnetics	Santa Clara	D	
05	MN	Long Prairie Ground Water Contam	Long Prairie	D	
02	NJ	Pomona Oaks Residential Wells	Galloway Township	D	
09	CA	Precision Monolithic, Inc.	Santa Clara	D	
05	OH	Sanitary Landfill Co. (IWD)	Dayton	D	
09	CA	Signetics, Inc.	Sunnyvale	S	
02	NY	Kenmark Textile Corp.	Farmingdale	D	
04	KY	Maxey Flats Nuclear Disposal	Hillsboro	R	O

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NATIONAL PRIORITIES UPDATE LIST
GROUP 10 (CON'T)

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	MT	Mouat Industries	Columbus	D	
02	NY	Claremont Polychemical	Old Bethpage	V	
07	IA	Vogel Paint & Wax Co.	Orange City	S	I
05	MN	Kurt Manufacturing Co.	Fridley	D	
06	TX	Koppers Co., Inc. (Texarkana Plt)	Texarkana	D	
05	MN	Agate Lake Scrapyard	Fairview Township	D	
05	MI	Avenue "E" Ground Water Contamin	Traverse City	S	I
02	NJ	Jame Fine Chemical	Bound Brook	D	
05	MN	Koch Refining Co./N-Ren Corp.	Pine Bend	D	
07	IA	U.S. Nameplate Co.	Mount Vernon	D	
05	WI	Fadrowski Drum Disposal	Franklin	D	
09	CA	Zoecon Corp/Rhone-Poulenc, Inc.	East Palo Alto	S	
06	AR	Midland Products	Ola/Birta	D	
02	NY	BEC Trucking	Town of Vestal	D	
02	NY	Robintech, Inc./National Pipe Co.	Town of Vestal	D	

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NATIONAL PRIORITIES UPDATE LIST
GROUP 11

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
03	VA	Rhinehart Tire Fire Dump	Frederick County	V R F	O
01	MA	Haverhill Municipal Landfill	Haverhill	D	
02	NY	Colesville Municipal Landfill	Town of Colesville	D	
09	CA	Firestone Tire (Salinas Plant)	Salinas	D	
05	IN	MIDCO II	Gary	R F	I
03	MD	Kane & Lombard Street Drums	Baltimore	R	O
10	WA	Silver Mountain Mine	Loomis	D	
06	TX	Petro-Chemical (Turtle Bayou)	Liberty County	D	
05	OH	Republic Steel Corp. Quarry	Elyria	D	
09	CA	Hewlett Packard	Palo Alto	D	
01	MA	Shpack Landfill	Norton/Attleboro	D	
04	FL	Montco Research Products, Inc.	Hollister	S	
01	MA	Norwood PCBs	Norwood	R	
01	NH	Coakley Landfill	North Hampton	S	
09	CA	IBM Corp. (San Jose Plant)	San Jose	D	
07	MO	North-U Drive Well Contamination	Springfield	R	I
10	WA	Northside Landfill	Spokane	D	
06	TX	Pesses Chemical Co.	Fort Worth	D	
07	MO	Bee Cee Manufacturing Co.	Malden	D	

TOTAL SITES LISTED: 208

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 1

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	CO	Rocky Flats Plant (USDOE)	Golden	R	O
05	IL	Sangamo/Crab Orchard NWR (USDOI)	Carterville	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 2

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
04	TN	Milan Army Ammunition Plant	Milan	R	I
08	CO	Rocky Mountain Arsenal	Adams County	R	O
09	CA	McClellan AFB (Ground Water Cont)	Sacramento	R	I

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 3

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Weldon Spring Quarry (USDOE/ARMY)	St. Charles County	R	
04	AL	Anniston Army Depot (SE Ind Area)	Anniston	R	O
04	GA	Robins Air Force Base	Houston County	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 4

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	NE	Cornhusker Army Ammunition Plant	Hall County	R	O
08	UT	Hill Air Force Base	Ogden	R	O

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 5

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
08	UT	Ogden Defense Depot	Ogden	R	
09	CA	Sacramento Army Depot	Sacramento	R	
01	ME	Brunswick Naval Air Station	Brunswick	R	
10	WA	McChord AFB (Wash Rack/Treatment)	Tacoma	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 6

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
10	WA	Fort Lewis (Landfill No. 5)	Tacoma	D	
09	CA	Lawrence Livermore Lab (USDOE)	Livermore	R	O
09	CA	Sharpe Army Depot	Lathrop	R	
05	IL	Savanna Army Depot Activity	Savanna	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 7

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
06	TX	Air Force Plant #4 (Gen Dynamics)	Fort Worth	R	
09	CA	Norton Air Force Base	San Bernardino	R	
08	UT	Tooele Army Depot (North Area)	Tooele	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 8

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
09	CA	Castle Air Force Base	Merced	R	I
02	NJ	Fort Dix (Landfill Site)	Trenton	R	
02	NJ	Naval Weapons Stat Earle (Site A)	Colts Neck	R	
04	AL	Alabama Army Ammunition Plant	Childersburg	R	O
03	DE	Dover Air Force Base	Dover	D	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 9

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
03	PA	Letterkenny Army Depot (SE Area)	Chambersburg	R	O
02	NY	Griffiss Air Force Base	Rome	R	
03	VA	Defense General Supply Center	Chesterfield County	R	I

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 10

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
07	MO	Lake City Army Plant (NW Lagoon)	Independence	R	I
05	IL	Joliet Army Ammo Plant (Mfg Area)	Joliet	R	O
06	TX	Lone Star Army Ammunition Plant	Texarkana	R	
10	OR	Umatilla Army Depot Lagoons	Hermiston	R	

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NATIONAL PRIORITIES UPDATE LIST
FEDERAL SITES
GROUP 11

EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
06	LA	Louisiana Army Ammunition Plant	Doyline	R	
10	WA	Bangor Ordnance Disposal	Bremerton	R	
09	CA	Mather AFB (AC&W Disposal Site)	Sacramento	R	

TOTAL SITES LISTED: 36

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The following list of final NPL (49 FR 37070 September 21, 1984) indicates the appropriate status codes for response and cleanup activities at these sites.

NATIONAL PRIORITIES LIST FINAL SITES - GROUP 1

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
1	02	NJ	Lipari Landfill	Pitman	R F	O
2	03	DE	Tybouts Corner Landfill *	New Castle County	V R F	
3	03	PA	Bruin Lagoon	Bruin Borough	R	I
4	02	NJ	Helen Kramer Landfill	Mantua Township	R	
5	01	MA	Industri-Plex	Woburn	V R	I
6	02	NJ	Price Landfill *	Pleasantville	R F	O
7	02	NY	Pollution Abatement Services *	Oswego	R F	O
8	07	IA	LaBounty Site	Charles City	V F S	O
9	03	DE	Army Creek Landfill	New Castle County	V F	
10	02	NJ	CPS/Madison Industries	Old Bridge Township	S	
11	01	MA	Nyanza Chemical Waste Dump	Ashland	R	
12	02	NJ	Gems Landfill	Gloucester Township	R	I
13	05	MI	Berlin & Farro	Swartz Creek	V R F S	O
14	01	MA	Baird & McGuire	Holbrook	R F	O
15	02	NJ	Lone Pine Landfill	Freehold Township	R	
16	01	NH	Somersworth Sanitary Landfill	Somersworth	R	
17	05	MN	FMC Corp. (Fridley Plant)	Fridley	V F S	O
18	06	AR	Vertac, Inc.	Jacksonville	V F	I
19	01	NH	Keefe Environmental Services	Epping	V R S	O
20	08	SD	Whitewood Creek *	Whitewood	V	
21	08	MT	Silver Bow Creek	Sil Bow/Deer Lodge	R	
22	06	TX	French, Ltd.	Crosby	R F	O
23	01	NH	Sylvester *	Nashua	R S	O
24	05	MI	Liquid Disposal, Inc.	Utica	R F	O
25	03	PA	Tysons Dump	Upper Merion Twp	R	O
26	03	PA	McAdoo Associates *	McAdoo Borough	R	
27	06	TX	Motco Inc. *	La Marque	R	O
28	05	OH	Arcanum Iron & Metal	Darke County	R F	
29	08	MT	East Helena Site	East Helena		
30	06	TX	Sikes Disposal Pits	Crosby	R F	O
31	04	AL	Triana/Tennessee River	Limestone/Morgan	V R F	
32	09	CA	Stringfellow *	Glen Avon Heights	R F	O
33	01	ME	McKin Co.	Gray	R S	O
34	06	TX	Crystal Chemical Co.	Houston	R F	O
35	02	NJ	Bridgeport Rental & Oil Services	Bridgeport	R	O
36	08	CO	Sand Creek Industrial	Commerce City		
37	06	TX	Geneva Industries/Fuhrmann Energy	Houston	R F	O
38	01	MA	W. R. Grace & Co. (Acton Plant)	Acton	V F	I
39	05	MN	Reilly Tar (St. Louis Park Plant)	St. Louis Park	R F S	I
40	02	NJ	Burnt Fly Bog	Marlboro Township	R S	O
41	02	NJ	Vineland Chemical Co., Inc.	Vineland	D	
42	04	FL	Schuylkill Metals Corp.	Plant City	D	O
43	05	MN	New Brighton/Arden Hills	New Brighton	R	O
44	02	NY	Old Bethpage Landfill	Oyster Bay	V S	
45	02	NJ	Shieldalloy Corp.	Newfield Borough	D	
46	04	FL	Reeves SE Galvanizing Corp.	Tampa	D	O
47	08	MT	Anaconda Co. Smelter	Anaconda	V R	
48	10	WA	Western Processing Co., Inc.	Kent	V R F	O
49	05	WI	Omega Hills North Landfill	Germantown	D	
50	04	FL	American Creosote Works	Pensacola	R F	O

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 2

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
51	02	NJ	Caldwell Trucking Co.	Fairfield	R S	
52	02	NY	GE Moreau	South Glen Falls	V	
53	05	IN	Seymour Recycling Corp. *	Seymour	V R F	O
54	05	OH	United Scrap Lead Co., Inc.	Troy	D	
55	06	OK	Tar Creek (Ottawa County)	Ottawa County	R	I
56	07	KS	Cherokee County	Cherokee County	R	
57	02	NJ	Brick Township Landfill	Brick Township	D	
58	05	MI	Northernaire Plating	Cadillac	R	O
59	05	WI	Janesville Old Landfill	Janesville	D	
60	10	WA	Frontier Hard Chrome, Inc.	Vancouver	R	
61	04	SC	Independent Nail Co.	Beaufort	D	
62	04	SC	Kalama Specialty Chemicals	Beaufort	S	
63	05	WI	Janesville Ash Beds	Janesville	D	
64	04	FL	Davie Landfill	Davie	D	
65	05	OH	Miami County Incinerator	Troy	F	
66	04	FL	Gold Coast Oil Corp.	Miami	D	
67	05	WI	Wheeler Pit	La Prairie Township	D	
68	09	AZ	Tucson Intl Airport Area	Tucson	R	
69	02	NY	Wide Beach Development	Brant	R	
70	09	CA	Iron Mountain Mine	Redding	R	
71	02	NJ	Scientific Chemical Processing	Carlstadt	S	
72	08	CO	California Gulch	Leadville		
73	02	NJ	D'Imperio Property	Hamilton Township	R	
74	05	MI	Gratiot County Landfill *	St. Louis	V R F S	
75	01	RI	Picillo Farm *	Coventry	R S	O
76	01	MA	New Bedford Site *	New Bedford	V R F S	I
77	06	LA	Old Inger Oil Refinery *	Darrow	R	O
78	05	OH	Chem-Dyne *	Hamilton	V R F S	O
79	04	SC	SCRDI Bluff Road *	Columbia	V R F	O
80	01	CT	Laurel Park, Inc. *	Naugatuck Borough	V S	
81	08	CO	Marshall Landfill *	Boulder County		
82	05	IL	Outboard Marine Corp. *	Waukegan	R F S	
83	06	NM	South Valley *	Albuquerque	R F	
84	01	VT	Pine Street Canal *	Burlington	V	I
85	03	WV	West Virginia Ordnance *	Point Pleasant	V	O
86	07	MO	Ellisville Site *	Ellisville	R	O
87	08	ND	Arsenic Trioxide Site *	Southeastern N.D.	R	
88	09	TT	PCB Wastes *	Pacific Trust Terr	R	C
89	03	VA	Matthews Electroplating *	Roanoke County	R	
90	07	IA	Aidex Corp. *	Council Bluffs	R F	O
91	09	AZ	Mountain View Mobile Homes *	Globe	R F	I
92	09	AS	Taputimu Farm *	American Samoa	R	C
93	04	TN	North Hollywood Dump *	Memphis	R S	
94	04	KY	A.L. Taylor (Valley of Drums) *	Brooks	R F	O
95	04	NC	PCB Spills *	210 Miles of Roads	R F	C
96	09	GU	Ordot Landfill *	Guam	R	
97	04	MS	Flowood Site *	Flowood	D	
98	08	UT	Rose Park Sludge Pit *	Salt Lake City	V	
99	07	KS	Arkansas City Dump *	Arkansas City	R	
100	09	CM	PCB Warehouse *	Marianas	R	C

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 3

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
101	05	MN	Oakdale Dump	Oakdale	F	
102	05	IL	A & F Material Reclaiming, Inc.	Greenup	V R F S	O
103	03	PA	Douglassville Disposal	Douglassville	R	
104	02	NJ	Krysowaty Farm	Hillsborough	R	
105	05	MN	Koppers Coke	St. Paul	D	
106	01	MA	Plymouth Harbor/Cannon Engnrng	Plymouth	V R S	O
107	10	ID	Bunker Hill Mining & Metallurg	Smelterville	D	
108	02	NY	Hudson River PCBs	Hudson River	R	
109	02	NJ	Universal Oil Products(Chem Div)	East Rutherford	S	
110	09	CA	Aerojet General Corp.	Rancho Cordova	S	
111	10	WA	Com Bay, South Tacoma Channel	Tacoma	R F	O
112	03	PA	Osborne Landfill	Grove City	V S	
113	01	CT	Old Southington Landfill	Southington	D	
114	02	NY	Syosset Landfill	Oyster Bay	D	
115	09	AZ	Nineteenth Avenue Landfill	Phoenix	S	
116	10	OR	Teledyne Wah Chang	Albany	D	
117	02	NY	Sinclair Refinery	Wellsville	V R	
118	04	AL	Mowbray Engineering Co.	Greenville	R	O
119	05	MI	Spiegelberg Landfill	Green Oak Township	R	
120	04	FL	Miami Drum Services	Miami	R	O
121	02	NJ	Reich Farms	Pleasant Plains	D	
122	10	ID	Union Pacific Railroad Co.	Pocatello	D	
123	02	NJ	South Brunswick Landfill	South Brunswick	V	I
124	04	AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh	D	
125	04	FL	Kassauf-Kimerling Battery	Tampa	R F	
126	05	IL	Wauconda Sand & Gravel	Wauconda	R	
127	01	NH	Ottati & Goss/Kingston Steel Drum	Kingston	V R F S	O
128	05	MI	Ott/Story/Cordova	Dalton Township	R	O
129	02	NJ	NL Industries	Pedricktown	S	O
130	05	MN	St. Regis Paper Co.	Cass Lake	D	
131	02	NJ	Ringwood Mines/Landfill	Ringwood Borough	V	
132	04	FL	Whitehouse Oil Pits	Whitehouse	R	
133	04	GA	Hercules 009 Landfill	Brunswick	D	
134	05	MI	Velsicol Chemical (Michigan)	St. Louis	V F S	O
135	05	OH	Summit National	Deerfield Township	R	
136	02	NY	Love Canal	Niagara Falls	R F S	Q
137	05	IN	Fisher-Calo	LaPorte	F	
138	04	FL	Pioneer Sand Co.	Warrington	R S	
139	05	MI	Springfield Township Dump	Davisburg	R	
140	03	PA	Uranica Landfill	Buffalo Township	D	
141	04	NC	Martin Marietta, Sodyeco, Inc.	Charlotte	D	
142	04	FL	Zellwood Ground Water Contam	Zellwood	F	
143	05	MI	Packaging Corp. of America	Filer City	F	
144	05	WI	Muskego Sanitary Landfill	Muskego	D	
145	02	NY	Hooker (S Area)	Niagara Falls	F S	
146	03	PA	Lindane Dump	Harrison Township	D	
147	08	CO	Central City-Clear Creek	Idaho Springs	R	
148	02	NJ	Ventron/Velsicol	Wood Ridge Borough	S	
149	04	FL	Taylor Road Landfill	Seffner	V F	O
150	01	RI	Western Sand & Gravel	Burrillville	R S	O

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 4

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
151	04	SC	Koppers Co., Inc (Florence Plant)	Florence	S	
152	02	NJ	Maywood Chemical Co.	Maywood/Rochelle Pk		I
153	02	NJ	Nascolite Corp.	Millville	V R	
154	06	OK	Hardage/Criner	Criner	F	
155	05	MI	Rose Township Dump	Rose Township	R	
156	05	MN	Waste Disposal Engineering	Andover	V R F	
157	02	NJ	Kin-Buc Landfill	Edison Township	V R F	O
158	05	OH	Bowers Landfill	Circleville	V	
159	02	NJ	Ciba-Geigy Corp.	Toms River	R	
160	05	MI	Butterworth #2 Landfill	Grand Rapids	F	
161	02	NJ	American Cyanamid Co.	Bound Brook	S	
162	03	PA	Heleva Landfill	North Whitehall Twp	R	
163	02	NJ	Ewan Property	Shamong Township	D	
164	02	NY	Batavia Landfill	Batavia	V	
165	05	MN	Boise Cascade/Onan/Medtronics	Fridley	S	I
166	01	RI	L&RR, Inc.	North Smithfield	V S	
167	04	FL	NW 58th Street Landfill	Hialeah	R	
168	02	NJ	Delilah Road	Egg Harbor Township	R	
169	03	PA	Mill Creek Dump	Erie	R	O
170	04	FL	Sixty-Second Street Dump	Tampa	R	
171	05	MI	C&H Landfill	Utica	R	
172	02	NJ	Metaltec/Aerosystems	Franklin Borough	R	
173	05	WI	Schmalz Dump	Harrison	D	
174	02	NJ	Lang Property	Pemberton Township	D	
175	02	NJ	Sharkey Landfill	Parsippany Troy Hls	R	
176	09	CA	Selma Treating Co.	Selma	S	
177	06	LA	Cleve Reber	Sorrento	V R	O
178	05	IL	Velsicol Chemical (Illinois)	Marshall	D	
179	05	MI	Tar Lake	Mancelona Township	D	
180	08	CO	Lowry Landfill	Arapahoe County	V R	
181	05	MN	MacGillis & Gibbs/Bell Lumber	New Brighton	S	
182	02	NJ	Combe Fill North Landfill	Mount Olive Twp	R	
183	01	MA	Re-Solve, Inc.	Dartmouth	R F	I
184	02	NJ	Goose Farm	Plumstead Township	R F	O
185	04	TN	Velsicol Chem (Hardeman County)	Toone	D	
186	02	NY	York Oil Co.	Moira	R F	O
187	04	FL	Sapp Battery Salvage	Cottondale	R	I
188	04	SC	Wamchem, Inc.	Burton	D	
189	02	NJ	Chemical Leaman Tank Lines, Inc.	Bridgeport	D	
190	05	WI	Master Disposal Service Landfill	Brookfield	D	
191	07	KS	Doepke Disposal Site (Holliday)	Johnson County	D	
192	02	NJ	Florence Land Recontouring LF	Florence Township	R	
193	01	RI	Davis Liquid Waste	Smithfield	R S	
194	01	MA	Charles-George Reclamation Lf	Tyngsborough	R F	O
195	02	NJ	King of Prussia	Winslow Township	D	
196	03	VA	Chisman Creek	York County	R	
197	05	OH	Nease Chemical	Salem	D	
198	02	NJ	W. R. Grace & Co. (Wayne Plant)	Wayne Township	R	O
199	02	NJ	Chemical Control	Elizabeth	R S	O
200	04	SC	Leonard Chemical Co., Inc.	Rock Hill	S	O

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 5

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
201	05	OH	Allied Chemical & Ironton Coke	Ironton	R F	
202	05	MI	Verona Well Field	Battle Creek	R F S	O
203	01	CT	Beacon Heights Landfill	Beacon Falls	R	
204	04	AL	Stauffer Chem (Cold Creek Plant)	Bucks	D	
205	05	MN	Burlington Northern (Brainerd)	Brainerd/Baxter	F S	
206	03	PA	Malvern TCE	Malvern	D	
207	02	NY	Facet Enterprises, Inc.	Elmira	V	
208	03	DE	Delaware Sand & Gravel Landfill	New Castle County	R	O
209	04	TN	Murray-Ohio Dump	Lawrenceburg	S	
210	05	IN	Envirochem Corp.	Zionsville	V R F S	O
211	05	IN	MIDCO I	Gary	R F	O
212	05	OH	South Point Plant	South Point	D	
213	04	FL	Coleman-Evans Wood Preserving Co.	Whitehouse	S	
214	03	PA	Dorney Road Landfill	Upper Macungie Twp	R	
215	05	IN	Northside Sanitary Landfill, Inc	Zionsville	F	
216	04	FL	Florida Steel Corp.	Indiantown	D	
217	09	AZ	Litchfield Airport Area	Goodyear/Avondale	F	
218	02	NJ	Spence Farm	Plumstead Township	R	
219	06	AR	Mid-South Wood Products	Mena	F	
220	09	CA	Atlas Asbestos Mine	Fresno County	D	
221	09	CA	Coalinga Asbestos Mine	Coalinga	D	
222	04	FL	Brown Wood Preserving	Live Oak	F	
223	02	NY	Port Washington Landfill	Port Washington	D	
224	02	NJ	Combe Fill South Landfill	Chester Township	R	
225	02	NJ	JIS Landfill	Jamesburg/S. Brnswck	S	
226	03	PA	Centre County Kepone	State College Boro	S	O
227	05	OH	Fields Brook	Ashtabula	D	
228	01	CT	Solvents Recovery Service	Southington	V	
229	08	CO	Woodbury Chemical Co.	Commerce City	R	
230	01	MA	Hocomonco Pond	Westborough	R	
231	04	KY	Distler Brickyard	West Point	R F	O
232	02	NY	Ramapo Landfill	Ramapo	V	
233	09	CA	Coast Wood Preserving	Ukiah	S	
234	02	NY	Mercury Refining, Inc.	Colonie	D	
235	04	FL	Hollingsworth Solderless Terminal	Fort Lauderdale	D	
236	02	NY	Olean Well Field	Olean	V R	O
237	04	FL	Varsol Spill	Miami	R	
238	05	MN	Joslyn Manufacturing & Supply Co.	Brooklyn Center	F S	
239	08	CO	Denver Radium Site	Denver	R	
240	04	FL	Tower Chemical Co.	Clermont	R F	O
241	07	MO	Syntex Facility	Verona	V F	I
242	08	MT	Milltown Reservoir Sediments	Milltown	R	
243	05	MN	Arrowhead Refinery Co.	Hermantown	R	
244	02	NJ	Pijak Farm	Plumstead Township	R	
245	02	NJ	Syncon Resins	South Kearny	R	O
246	09	CA	Liquid Gold Oil Corp.	Richmond	S	
247	09	CA	Purity Oil Sales, Inc.	Malaga	R	
248	01	NH	Tinkham Garage	Londonderry	R S	O
249	04	FL	Alpha Chemical Corp.	Galloway	D	
250	02	NJ	Bog Creek Farm	Howell Township	R	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 6

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
251	01	ME	Saco Tannery Waste Pits	Saco	R	O
252	04	FL	Pickettville Road Landfill	Jacksonville	D	
253	01	MA	Iron Horse Park	Billerica	R	
254	03	PA	Palmerton Zinc Pile	Palmerton	F	
255	05	IN	Neal's Landfill (Bloomington)	Bloomington	V F S	
256	05	WI	Kohler Co. Landfill	Kohler	D	
257	01	MA	Silresim Chemical Corp.	Lowell	R S	O
258	01	MA	Wells G&H	Woburn	V F	
259	02	NJ	Chemsol, Inc.	Piscataway	S	
260	05	WI	Lauer I Sanitary Landfill	Menomonee Falls	D	
261	05	MI	Petoskey Municipal Well Field	Petoskey	F	
262	05	MN	Union Scrap	Minneapolis	S	
263	02	NJ	Radiation Technology, Inc.	Rockaway Township	V	
264	02	NJ	Fair Lawn Well Field	Fair Lawn	S	I
265	05	IN	Main Street Well Field	Elkhart	D	
266	05	MN	Lehillier/Mankato Site	Lehillier	R	O
267	10	WA	Lakewood Site	Lakewood	R S	I
268	03	PA	Industrial Lane	Williams Township	F	
269	05	WI	Onalaska Municipal Landfill	Onalaska	D	
270	02	NJ	Monroe Township Landfill	Monroe Township	S	O
271	02	NJ	Rockaway Borough Well Field	Rockaway Township	R	
272	05	IN	Wayne Waste Oil	Columbia City	R S	
273	10	ID	Pacific Hide & Fur Recycling Co.	Pocatello	R F	O
274	07	IA	Des Moines TCE	Des Moines	F	
275	02	NJ	Beachwood/Berkley Wells	Berkley Township	R	
276	02	NY	Vestal Water Supply Well 4-2	Vestal	S	
277	02	PR	Vega Alta Public Supply Wells	Vega Alta	R	
278	05	MI	Sturgis Municipal Wells	Sturgis	D	
279	05	MN	Washington County Landfill	Lake Elmo	S	
280	09	AZ	Indian Bend Wash Area	Scottsdale/Tempe	F	
281	09	CA	San Gabriel Valley (Area 1)	El Monte	R	I
282	09	CA	San Gabriel Valley (Area 2)	Baldwin Park Area	R	
283	10	WA	Com Bay, Near Shore/Tide Flats	Pierce County	R	
284	05	IL	LaSalle Electric Utilities	LaSalle	R	
285	05	IL	Cross Brothers Pail (Pembroke)	Pembroke Township	R	
286	02	PR	Upjohn Facility	Barceloneta	D	
287	09	CA	McColl	Fullerton	R F	I
288	03	PA	Henderson Road	Upper Merion Twp	D	
289	10	WA	Colbert Landfill	Colbert	R	O
290	06	LA	Petro-Processors	Scotlandville	V F	
291	02	PR	Frontera Creek	Rio Abajo	D	
292	02	PR	Barceloneta Landfill	Florida Afuera	D	
293	03	MD	Sand, Gravel & Stone	Elkton	R	I
294	05	MI	Spartan Chemical Co.	Wyoming	D	
295	02	NJ	Roebling Steel Co.	Florence	R	
296	03	PA	East Mount Zion	Springettsbury Twp	R	
297	04	TN	Amnicola Dump	Chattanooga	D	
298	02	NJ	Vineland State School	Vineland	D	
299	03	PA	Enterprise Avenue	Philadelphia	R S	O
300	01	MA	Groveland Wells	Groveland	V R S	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 7

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
301	02	NY	General Motors (Cent Foundry Div)	Massena	F	
302	04	SC	SCRDI Dixiana	Cayce	R F S	O
303	07	MO	Fulbright Landfill	Springfield	D	
304	03	PA	Presque Isle	Erie	D	
305	02	NJ	Williams Property	Swainton	R	
306	02	NJ	Renora, Inc.	Edison Township	D	
307	02	NJ	Denzer & Schafer X-Ray Co.	Bayville	D	
308	02	NJ	Hercules, Inc. (Gibbstown Plant)	Gibbstown	D	
309	05	IN	Ninth Avenue Dump	Gary	V	
310	06	AR	Gurley Pit	Edmondson	V R F	O
311	01	RI	Peterson/Puritan, Inc.	Lincoln/Cumberland	D	
312	07	MO	Times Beach Site	Times Beach	R	O
313	05	MI	Wash King Laundry	Pleasant Plains Twp	S	
314	05	MN	Whittaker Corp.	Minneapolis	S	
315	05	MN	NL Industries/Taracorp/Golden	St. Louis Park	D	
316	01	CT	Kellogg-Deering Well Field	Norwalk	R	
317	01	MA	Cannon Engineering Corp. (CEC)	Bridgewater	R S	
318	02	NY	Niagara County Refuse	Wheatfield	D	
319	04	FL	Sherwood Medical Industries	Deland	D	
320	04	AL	Olin Corp. (McIntosh Plant)	McIntosh	D	
321	05	MI	Southwest Ottawa County Landfill	Park Township	S	
322	02	NY	Kentucky Avenue Well Field	Horseheads	R	
323	02	NJ	Asbestos Dump	Millington	F	
324	04	KY	Lee's Lane Landfill	Louisville	F	
325	06	AR	Frit Industries	Walnut Ridge	V F	I
326	05	OH	Fultz Landfill	Jackson Township	R	
327	04	FL	Tri-City Oil Conservationist, Inc	Tampa	R F	O
328	05	OH	Coshocton Landfill	Franklin Township	F	
329	03	PA	Lord-Shope Landfill	Girard Township	V S	I
330	10	WA	FMC Corp. (Yakima Pit)	Yakima	D	
331	05	WI	Northern Engraving Co.	Sparta	D	
332	01	MA	PSC Resources	Palmer	S	I
333	05	MI	Forest Waste Products	Otisville	R F	I
334	03	PA	Drake Chemical	Lock Haven	R F	O
335	01	NH	Kearsarge Metallurgical Corp.	Conway	S	
336	04	SC	Palmetto Wood Preserving	Dixianna	D	
337	05	MI	Clare Water Supply	Clare	D	
338	03	PA	Havertown PCP	Haverford	R	
339	03	DE	New Castle Spill	New Castle County	D	
340	05	MN	Morris Arsenic Dump	Morris	R	
341	05	IN	Lake Sandy Jo (M&M Landfill)	Gary	R	
342	05	IL	Johns-Manville Corp.	Waukegan	V F	
343	05	MI	Chem Central	Wyoming Township	S	
344	05	MI	Novaco Industries	Temperance	F	
345	02	NJ	Jackson Township Landfill	Jackson Township	D	
346	05	MI	K&L Avenue Landfill	Oshtemo Township	D	
347	10	WA	Kaiser Aluminum Mead Works	Mead	V	O
348	05	MN	Perham Arsenic Site	Perham	R	
349	05	MI	Charlevoix Municipal Well	Charlevoix	R	I
350	02	NJ	Montgomery Township Housing Dev	Montgomery Township	R	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 8

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
351	02	NJ	Rocky Hill Municipal Well	Rocky Hill Borough	R	
352	02	NY	Brewster Well Field	Putnam County	R	
353	02	NY	Vestal Water Supply Well 1-1	Vestal	R	
354	05	MN	Nutting Truck & Caster Co.	Faribault	S	
355	02	NJ	U.S. Radium Corp.	Orange	R	
356	06	TX	Highlands Acid Pit	Highlands	R	
357	03	PA	Resin Disposal	Jefferson Borough	D	
358	08	MT	Libby Ground Water Contamination	Libby	D	
359	04	KY	Newport Dump	Newport	D	
360	03	PA	Moyers Landfill	Eagleville	R F	
361	04	FL	Parramore Surplus	Mount Pleasant	D	
362	01	NH	Savage Municipal Water Supply	Milford	R S	O
363	05	IN	Poer Farm	Hancock County	R	O
364	05	MI	Hedblum Industries	Oscoda	F	
365	06	TX	United Creosoting Co.	Conroe	V R	C
366	08	WY	Baxter/Union Pacific Tie Treating	Laramie	D	
367	02	NJ	Sayreville Landfill	Sayreville	D	
368	01	NH	Dover Municipal Landfill	Dover	R	
369	02	NY	Ludlow Sand & Gravel	Clayville	D	
370	05	WI	City Disposal Corp. Landfill	Dunn	D	
371	02	NJ	Tabernacle Drum Dump	Tabernacle Twp	V F	
372	02	NJ	Cooper Road	Voorhees Township	D	
373	07	MO	Minker/Stout/Romaine Creek	Imperial	R	O
374	01	CT	Yaworski Waste Lagoon	Canterbury	R S	
375	03	WV	Leetown Pesticide	Leetown	R	O
376	04	FL	Cabot/Koppers	Gainesville	R S	
377	02	NJ	Evor Phillips Leasing	Old Bridge Township	D	
378	03	PA	Wade (ABM)	Chester	R F S	O
379	03	PA	Lackawanna Refuse	Old Forge Borough	R F	O
380	06	OK	Compass Industries (Avery Drive)	Tulsa	R	
381	02	NJ	Mannheim Avenue Dump	Galloway Township	D	
382	02	NY	Fulton Terminals	Fulton	D	O
383	01	NH	Auburn Road Landfill	Londonderry	R S	
384	03	WV	Fike Chemical, Inc.	Nitro	V F	I
385	05	MN	General Mills/Henkel Corp.	Minneapolis	S	
386	05	OH	Laskin/Poplar Oil Co.	Jefferson Township	R F	O
387	05	OH	Old Mill	Rock Creek	R F	O
388	07	KS	Johns' Sludge Pond	Wichita	V F	I
389	09	CA	Del Norte Pesticide Storage	Crescent City	R	
390	02	NJ	De Rewal Chemical Co.	Kingwood Township	D	
391	02	NJ	Swope Oil & Chemical Co.	Pennsauken	V R	I
392	04	GA	Monsanto Corp. (Augusta Plant)	Augusta	V	
393	01	NH	South Municipal Water Supply Well	Peterborough	S	
394	01	ME	Winthrop Landfill	Winthrop	V F	I
395	06	AR	Cecil Lindsey	Newport	R	
396	05	OH	Zanesville Well Field	Zanesville	V	
397	05	WI	Eau Claire Municipal Well Field	Eau Claire	D	
398	04	GA	Powersville Site	Peach County	D	
399	05	MI	Grand Traverse Overall Supply Co.	Greilickville	D	
400	05	MI	Metamora Landfill	Metamora	D	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 9

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
401	05	MI	Whitehall Municipal Wells	Whitehall	R	
402	05	MN	South Andover Site	Andover	D	
403	02	NJ	Diamond Alkali Co.	Newark	V	I
404	05	MI	Kentwood Landfill	Kentwood	D	
405	05	MI	Electrovoice	Buchanan	D	
406	02	PR	Fibers Public Supply Wells	Jobos	D	
407	05	IN	Marion (Bragg) Dump	Marion	D	
408	05	OH	Pristine, Inc.	Reading	F	I
409	05	WI	Mid-State Disposal, Inc. Landfill	Cleveland Township	R	
410	08	CO	Broderick Wood Products	Denver	R	
411	05	OH	Buckeye Reclamation	St. Clairsville	D	
412	06	TX	Bio-Ecology Systems, Inc.	Grand Prairie	R	O
413	02	NJ	Woodland Route 532 Dump	Woodland Township	D	
414	05	IN	American Chemical Service, Inc.	Griffith	D	
415	01	VT	Old Springfield Landfill	Springfield	V R F	O
416	02	NY	Solvent Savers	Lincklaen	D	
417	03	VA	U.S. Titanium	Piney River	F S	
418	05	IL	Galesburg/Koppers Co.	Galesburg	D	
419	02	NY	Hooker (Hyde Park)	Niagara Falls	V F S	O
420	05	MI	SCA Independent Landfill	Muskegon Heights	D	
421	09	CA	MGM Brakes	Cloverdale	S	
422	06	LA	Bayou Sorrell	Bayou Sorrell	F	
423	05	MI	Duell & Gardner Landfill	Dalton Township	D	
424	02	NJ	Ellis Property	Evesham Township	R	O
425	04	KY	Bistier Farm	Jefferson County	R F	O
426	10	WA	Harbor Island (Lead)	Seattle	D	
427	05	WI	Lemberger Transport & Recycling	Franklin Township	D	
428	05	OH	E.H. Schilling Landfill	Hamilton Township	D	
429	05	MI	Cliff/Dow Dump	Marquette	F	
430	10	WA	Queen City Farms	Maple Valley	F	
431	05	WI	Scrap Processing Co., Inc.	Medford	S	
432	06	NM	Homestake Mining Co.	Milan	V F	I
433	05	MI	Mason County Landfill	Pere Marquette Twp	D	
434	05	MI	Cemetery Dump	Rose Center	R	
435	02	NJ	Hopkins Farm	Plumstead Township	D	
436	01	RI	Stamina Mills, Inc.	North Smithfield	R	
437	05	IN	Reilly Tar (Indianapolis Plant)	Indianapolis	F	
438	01	ME	Pinette's Salvage Yard	Washburn	R	O
439	06	TX	Harris (Farley Street)	Houston	V	
440	02	NJ	Wilson Farm	Plumstead Township	D	
441	03	PA	Old City of York Landfill	Seven Valleys	D	
442	05	IL	Byron Salvage Yard	Byron	R	I
443	03	PA	Stanley Kessler	King of Prussia	F	
444	02	NJ	Friedman Property	Upper Freehold Twp	R	
445	02	NJ	Imperial Oil/Champion Chemicals	Morganville	D	
446	02	NJ	Myers Property	Franklin Township	R	I
447	02	NJ	Pepe Field	Boonton	R	
448	05	MI	Ossineke Ground Water Contam	Ossineke	D	
449	03	WV	Follansbee Site	Follansbee	F	
450	09	CA	Koppers Co., Inc. (Oroville Plant)	Oroville	S	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 10

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
451	05	MI	U.S. Aviex	Howard Township	S	
452	03	PA	Walsh Landfill	Honeybrook Township	R	
453	02	NJ	Landfill & Development Co.	Mount Holly	S	I
454	02	NJ	Upper Deerfield Township Slf	Upper Deerfield Twp	D	
455	06	NM	AT & SF (Clovis)	Clovis	V F	
456	02	NY	American Thermostat Co.	South Cairo	V	
457	04	TN	Lewisburg Dump	Lewisburg	D	
458	05	MI	McGraw Edison Corp.	Albion	V	
459	04	KY	Airco	Calvert City	D	
460	03	PA	Metal Banks	Philadelphia	V F	
461	04	KY	B.F. Goodrich	Calvert City	D	
462	05	MI	Organic Chemicals, Inc.	Grandville	D	
463	01	MA	Sullivan's Ledge	New Bedford	R	
464	02	PR	Juncos Landfill	Juncos	V F	O
465	05	IN	Bennett Stone Quarry	Bloomington	S	O
466	04	FL	Munisport Landfill	North Miami	D	
467	04	AL	Stauffer Chem (Le Moyne Plant)	Axis	D	
468	02	NJ	M&T Delisa Landfill	Asbury Park	V R	
469	04	SC	Geiger (C & M Oil)	Rantowles	D	
470	05	WI	Moss-American(Kerr-McGee Oil Co.)	Milwaukee	D	
471	05	WI	Waste Research & Reclamation Co.	Eau Claire	D	
472	10	OR	Gould, Inc.	Portland	V	I
473	05	MN	St. Louis River Site	St. Louis County	D	
474	05	MI	Auto Ion Chemicals, Inc.	Kalamazoo	V	
475	04	SC	Carolawn, Inc.	Fort Lawn	R F	O
476	03	PA	Berks Sand Pit	Longswamp Township	R	O
477	05	MI	Sparta Landfill	Sparta Township	S	
478	05	IL	ACME Solvent (Morristown Plant)	Morristown	R	
479	04	FL	Hipps Road Landfill	Duval County	D	
480	04	FL	Pepper Steel & Alloys, Inc.	Medley	R F	O
481	01	ME	O'Connor Co.	Augusta	D	
482	05	WI	Oconomowoc Electroplating Co. Inc	Ashippin	D	
483	05	MI	Rasmussen's Dump	Green Oak Township	R	
484	03	PA	Westline Site	Westline	R	O
485	05	OH	Powell Road Landfill	Dayton	D	
486	05	MI	Ionia City Landfill	Ionia	F	I
487	08	CO	Lincoln Park	Canon City	D	
488	05	IN	Wedzeb Enterprises, Inc.	Lebanon		I
489	02	PR	GE Wiring Devices	Juana Diaz	V F	
490	05	OH	New Lyme Landfill	New Lyme	V	
491	02	NJ	Woodland Route 72 Dump	Woodland Township	D	
492	02	PR	RCA Del Caribe	Barceloneta	D	C
493	03	PA	Brodhead Creek	Stroudsburg	R F	O
494	10	OR	United Chrome Products, Inc.	Corvallis	R	
495	05	MI	Anderson Development Co.	Adrian	D	
496	05	MI	Shiawassee River	Howell	D	
497	03	PA	Taylor Borough Dump	Taylor Borough	R	O
498	03	DE	Harvey & Knott Drum, Inc.	Kirkwood	R F	O
499	04	TN	Gallaway Pits	Gallaway	R F	O
500	05	OH	Big D Campground	Kingsville	D	

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NATIONAL PRIORITIES LIST FINAL SITES - GROUP 11

RANK	EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS @
501	03	DE	Wildcat Landfill	Dover	D	
502	05	MI	Burrows Sanitation	Hartford	D	
503	03	PA	Blosenski Landfill	West Caln Township	F	
504	03	DE	Delaware City PVC Plant	Delaware City	V F	
505	03	MD	Limestone Road	Cumberland	R	
506	02	NY	Hooker (102nd Street)	Niagara Falls	V F S	
507	03	DE	New Castle Steel	New Castle County	D	
508	06	NM	United Nuclear Corp.	Church Rock	F	
509	06	AR	Industrial Waste Control	Fort Smith	F	
510	09	CA	Celtor Chemical Works	Hoopa	R	O
511	04	AL	Perdido Ground Water Contam	Perdido	D	O
512	02	NY	Marathon Battery Corp.	Cold Springs	R	
513	03	PA	Lehigh Electric & Engineering Co.	Old Forge Borough	R F	O
514	05	OH	Skinner Landfill	West Chester	D	
515	04	NC	Chemtronics, Inc.	Swannanoa	D	
516	07	MO	Shenandoah Stables	Moscow Mills	V F	O
517	06	LA	Bayou Bonfouca	Slidell	R	
518	03	VA	Saltville Waste Disposal Ponds	Saltville	R	
519	03	PA	Kimberton Site	Kimberton Borough	D	
520	03	MD	Middletown Road Dump	Annapolis	R	I
521	10	WA	Pesticide Lab (Yakima)	Yakima	D	
522	05	IN	Lemon Lane Landfill	Bloomington	R S	I
523	10	ID	Arrcom (Drexler Enterprises)	Rathdrum	R	O
524	03	PA	Fischer & Porter Co.	Warminster	V F	
525	09	CA	Jibboom Junkyard	Sacramento	R	
526	02	NJ	A. O. Polymer	Sparta Township	D	O
527	02	NJ	Dover Municipal Well 4	Dover Township	D	
528	02	NJ	Rockaway Township Wells	Rockaway	V	I
529	05	WI	Delavan Municipal Well #4	Delavan	D	
530	09	CA	San Gabriel Valley (Area 3)	Alhambra	R	
531	09	CA	San Gabriel Valley (Area 4)	La Puente	R	
532	10	WA	American Lake Gardens	Tacoma	V	O
533	10	WA	Greenacres Landfill	Spokane County	D	
534	06	TX	Triangle Chemical Co.	Bridge City	R F	O
535	02	NJ	PJP Landfill	Jersey City	S	I
536	03	PA	Craig Farm Drum	Parker	D	
537	03	PA	Voortman Farm	Upper Saucon Twp	R	
538	05	IL	Belvidere Municipal Landfill	Belvidere	D	

TOTAL SITES LISTED: 538

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federal register

Monday
October 15, 1984

Part IV

Department of the Interior

Bureau of Land Management

43 CFR Part 3160

Onshore Oil and Gas Operations; Onshore Oil and Gas Order Number 2—Hydrogen Sulfide Operations; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

Onshore Oil and Gas Operations; Onshore Oil and Gas Order No. 2—Hydrogen Sulfide Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking would issue Onshore Oil and Gas Order No. 2 under 43 CFR 3164.1. This Order supplements requirements found in 43 CFR Part 3160 relating to the submittal of applications to conduct operations and the actual conduct thereof when those activities are in areas where the involved oil and/or gas intervals are known or reasonably expected to contain potentially hazardous concentrations of hydrogen sulfide or sulfur dioxide. As such, the Order particularly concentrates on those requirements that are necessary for the personal protection of workers and the public. The Bureau of Land Management's existing internal guidelines on this subject had never been formalized in a Notice to Lessees and Operators. Thus, this Order has no direct predecessor.

DATE: Comments should be submitted by December 14, 1984. Comments received or postmarked after the above date may not be considered as part of the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Eddie R. Wyatt, (202) 653–2133; or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The existing regulations in 43 CFR Part 3160—Oil and Gas Operations—provide in § 3164.1 for the issuance of Oil and Gas Orders when necessary to implement and supplement the specific provisions of the regulations. All Orders are to be promulgated through the rulemaking process and, when issued in final form, apply on a nationwide basis. A table is included in § 3164.1 that shows all existing or former Orders. This proposed rulemaking would result in the second of such Orders. It is intended specifically to supplement the provisions of § 3162.5–1—Environmental obligations—and § 3162.5–3—Safety precautions—as well as specific terms of Federal and Indian oil and gas leases.

Federal and Indian oil and gas lease terms require that the lessee shall "* * * exercise reasonable diligence in (drilling,) developing and producing * * * (and) * * * conduct operations in a manner that minimizes adverse impacts to the land, air, and water * * *." In addition, the lease provides that the lessee shall "* * * maintain a safe working environment in accordance with standard industry practices; and take measures necessary to protect the health and safety of the public." Pertinent portions of the onshore oil and gas operating regulations reiterate and reemphasize these requirements.

Industry practice for operations in a hydrogen sulfide (H_2S) or sulfur dioxide (SO_2) environment has been established, and the Department of the Interior's minimal requirements in that respect have long been spelled out in the Manual of the former Conservation Division of the U.S. Geological Survey, the functions of which are now performed by the Bureau of Land Management. This Manual section (R70–CDM 643.9, as redesignated by the Bureau) established minimum requirements for the approval and supervision of operations in areas known or expected to contain potentially hazardous concentrations of hydrogen sulfide or sulfur dioxide. Thus, the proposed Order is a reaffirmation of existing policy and practices, which were never published previously for public comment and/or issued in the form of a Notice to Lessees and Operators.

Hydrogen sulfide is a colorless, heavier-than-air and very toxic gas. It is generally described as having a sour odor or the smell of rotten eggs, but the sense of smell can not be relied on to warn of danger, since exposure to concentrations as small as 100 ppm will paralyze the olfactory nerve within 2 to 15 minutes. Exposure to concentrations in the range of 500 to 700 ppm will result in the loss of consciousness, and possibly death, within 30 minutes. Concentrations as small as 1,000 ppm can prove lethal after a few minutes' exposure and may be fatal, even if the individual is removed to fresh air at once. Exposure to higher concentrations is nearly always fatal.

Sulfur dioxide is a colorless, heavier-than-air and toxic gas. It is generally described as having a pungent odor and taste. Exposure to sulfur dioxide gas in concentrations up to 20 ppm causes irritation to the nose and throat and results is sneezing and choking. Exposure to concentrations of 1,000 ppm or more is nearly always lethal. Sulfur dioxide gas may be generated as a result of the application of certain enhanced recovery techniques and is a byproduct of flaring hydrogen sulfide gas.

The presence of dangerous levels of hydrogen sulfide in the oil and/or gas from certain formations underlying various areas of the United States has long been recognized. As technology for conducting operations in a hydrogen sulfide environment has improved and the demand for new sources of domestic oil and gas has increased, industry's activities in areas where the presence of hydrogen sulfide is a factor have experienced a substantial growth. While recognizing that industry standards do exist and that these are generally followed, it is incumbent on the Bureau of Land Management to establish minimum acceptable requirements for operating in a hydrogen sulfide environment on Federal and Indian lands. These minimum requirements are necessary to ensure that industry employees are protected properly against the hazards associated with the release of gases that contain dangerous concentrations of hydrogen sulfide.

This proposed Order applies to all activities planned and carried out on Fedearal and Indian lands where operations are under the jurisdiction of the Bureau of Land Management when it is known or reasonably expected that hydrogen sulfide and/or sulfur dioxide will be present in such concentrations that its release could constitute a hazard to either life or property and, with respect to drilling operations, to areas where the presence or absence thereof is unknown. Thus, the proposed Order would apply to operations such as drilling, workovers, producing, injection, gathering, storing and treating of oil or gas on lands where operations come under the jurisdiction of the Bureau.

The organization of the proposed Order is straightforward. The general requirements encompass determinations of hydrogen sulfide concentration, calculating the radii of exposures and escape rates, and compliance records. The requirements that address drilling and workover operations relate primarily to worker safety and have been coordinated with the Occupational Safety and Health Administration. These requirements relate to operating procedures; equipment; personnel protection, including training and protective gear; detection and monitoring equipment; warning systems; ventilation equipment; and protection of

the public. The latter includes both contingency plans and curtailment plans for critical operations. Section IV. of the proposed Order contains requirements covering operations in a hydrogen sulfide environment.

The public is asked specifically to comment on section II.A.1.b. of the proposed Order which relates to the training of personnel. In areas where H_2S is known to exist, or reasonably may be expected to exist, should weekly drill and training sessions be required throughout the operation or only after the monitoring requirements are initiated? How frequently should these sessions be held when drilling in areas where the presence of H_2S is unknown?

The Bureau of Land Management also is considering the desirability of including this and other Orders in the Code of Federal Regulations, and specific comments are requested in that regard.

The principal authors of this proposed rulemaking are Eddie Wyatt, Sie Ling Chiang and Stephen Spector, all of the Washington Office, Bureau of Land Management, assisted by Bruce Wamsley formerly of the Montana State Office, Lee Pauli of the Tulsa District Office, and the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The proposed Order will have no adverse economic effects, since its requirements reflect the operating practices currently followed by prudent operators when conducting operations in a hydrogen sulfide or sulfur dioxide environment. It may provide a beneficial economic effect in that proposals to conduct drilling or producing operations are less likely to be returned for modification if industry has a better understanding of the Bureau of Land Management's requirements in this regard. The major requirements basically are unchanged from those that have long been imposed on operations in a hydrogen sulfide or sulfur dioxide environment, and they impose the same burden on all lessees and operators, regardless of size, on lands where operations come under the jurisdiction of the Bureau. Therefore, a small entities flexibility analysis is not required.

The proposed Order will not affect current information collection and recordkeeping requirements. All proposed and existing reporting requirements are included in the following Office of Management and Budget approvals: 1004–0134, 1004–0135 or 1004–0136.

List of Subjects in 43 CFR Part 3160

Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Indian lands—mineral resources, Reporting requirements.

PART 3164—[AMENDED]

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), it is proposed to amend Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

1. Section 3164.1(b) is amended by adding the following entry to the table:

§ 3164.1 Onshore oil and gas orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	FR reference	Supersedes
1.	Approval of Operations.	Nov. 21, 1983	48 FR 48916 and 48 FR 56226.	NTL-6.
2.	Hydrogen Sulfide Operations.			None.

Dated: July 26, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

Appendix—Text of Oil and Gas Order

Note.—This appendix will not appear in the Code of Federal Regulations.

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Onshore Oil and Gas Order; Federal and Indian Oil and Gas Leases

Order No. 2

Effective ———.

Hydrogen Sulfide Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR 3160. Lessees and operators of onshore Federal and Indian (except Osage) oil and gas leases shall comply with the following requirements for conducting operations involving oil or gas that contains hydrogen sulfide. Requirments for protection of personnel and the public against sulfur dioxide emissions are contained in Section IV. of this Order. In general, any required reports or applications for variances hereunder shall be filed with the same office that Applications for Permit to Drill or Sundry Notices are filed. The requirements of this Order shall be administered by, and approvals obtained from, the authorized officer of the Bureau of Land Management.

This Order shall be effective whenever drilling, reworking, producing, injection for disposal or enhanced recovery, gathering, storing, and treating of hydrocarbons which are known or reasonably may be expected to contain concentrations of hydrogen sulfide (H_2S) gas or sulfur dioxide (SO_2) in such quantities that, if permitted to escape or accidentally released, could constitute a hazard to life or property and, with respect to drilling operations, to areas where the presence or absence thereof is unknown. The requirements of this Order do not apply where the absence of H_2S or SO_2 previously has been confirmed. Each application to conduct operations in such an H_2S or SO_2 environment shall fully describe the manner in which requirements of this Order will be implemented. Existing production facilities not meeting the requirements of Section III. of this Order shall be brought into conformance with such standards within a 150-day period after the effective date of this Order. If an operator has a valid reason to request a variance from the prescribed standards or an

extension of time in which to comply, it shall be submitted with the production system analysis. The authorized officer will consider the request, but if the variance or extension of time is denied, the operator shall have 60 days after receipt of the written denial or the original compliance date, whichever is later, to complete the necessary modifications.

The requirements relating to drilling operations are applicable in areas where the formations to be penetrated are known to contain or are expected to contain H_2S in excess of 20 ppm and, with respect to drilling operations, to areas where the presence or absence thereof is unknown. Other operations (producing, treating, etc.) will be evaluated on known conditions, such as volume of production, concentration of H_2S, geographical features, and relative location to populated areas. The authorized officer may, after consideration of all appropriate factors, require safety features that are more or less stringent than required by this Order. However, nothing contained in this Order is intended to relieve an operator of the necessity of complying with any applicable State or other Federal requirements concerning H_2S which are more stringent.

I. General

A. *Determination of H_2S Concentration.* Each operator shall determine the H_2S concentration in the gaseous mixture of each operation or facility and includes that information with the application to conduct the operation or to construct such a facility. For each existing production facility having an H_2S concentration of 100 ppm or more, the operator shall report to the authorized officer the H_2S concentration and radius of exposure within 30 days of the effective date of this Order and on annual basis thereafter. Production facilities constructed after the effective date of this Order and meeting the above concentration shall be subject to the same reporting requirement effective 30 days after operations at the facility are commenced. The requirements of this Order generally do not apply to situations in which the H_2S concentration measures less than 100 ppm, especially under low pressure and where past experience has demonstrated that these can be routinely and successfully contained. However, under the personnel protection provisions (Sections II.A.3., II.A.4.b., and II.C.1.g.) and the public protection provisions (Section II.B.), the requirements there relating to ambient concentrations as low as 20 ppm may be applied, even though the operation or facility concentration is less than 100 ppm. All drilling wells that will penetrate known or potential H_2S-bearing intervals shall have hydrogen sulfide (H_2S) monitoring equipment installed, as detailed in this Order.

B. *Radius of Exposure.* Except in the cases of storage tanks, the radius of exposure may be determined by the following Pasquill-Gifford equation, or by such other method(s) as may be approved by the authorized officer.

1. For determining, where applicable, the 20 ppm radius of exposure:
$X = [(7.944)(H_2S)(Q)]\ (0.6258)$.
2. For determining the 100 ppm radius of exposure:
$X = [(1.589)(H_2S)(Q)](0.6258)$.
3. For determining the 500 ppm radius of exposure:
$X = [(0.4546)(H_2S)(Q)](0.6258)$.

where: X = radius of exposure in feet;
H_2S = mole fraction of hydrogen sulfide (ppm) in the gaseous mixture;
Q = maximum volume of gas determined to be available for escape in cubic feet per day (at standard conditions of 14.73 psia and 60 degrees F).

Where emissions rates of gas and the concentration of H_2S are high, a dispersion technique that takes into account wind speed and atmospheric stability should be used.

C. *Escape Rate.* The maximum volume used as the escape rate in determining the radius of exposure shall be that specified below, as applicable.

1. For a production facility, the escape rate shall be calculated using the maximum daily rate of gas handled by that facility.
2. For existing gas wells, the escape rate is calculated by using the current adjusted open-flow rate, or the operator's estimate of the well's deliverability against atmospheric pressure, whichever is larger.
3. For a well being drilled in a developed area, the escape rate is determined by using the current adjusted open-flow rate of offset wells completed in the interval(s) in question, or the current field average adjusted open-flow rate for the wells completed in such interval(s), whichever is larger.
4. For a well being drilled in an area where the presence or absence of H_2S has not been confirmed previously, 100 ppm radius of exposure equal to 3,000 feet shall be assumed in calculating the escape rate. If a lesser radius can be justified, a written request for an exception shall be submitted, with supporting justification, to the authorized officer.

D. *Applicability.* The radii of exposure are determined on all systems and special precautions taken, as required under Section II.B. of this Order, when any of the following conditions apply:

1. The 20 ppm radius of exposure includes any part of a city, town, village, park, dwelling, school bus stop, work area, or other areas that are expected to be populated;
2. The 100 ppm radius of exposure is in excess of 50 feet and includes any public area;
3. The 500 ppm radius of exposure is greater than 50 feet and includes any part of a road owned by and maintained for public access or use; or
4. The 100 ppm radius of exposure is equal to or greater than 3000 feet where the potential for public access exists.

E. *Compliance Records.* The operator shall maintain records documenting compliance with each applicable provision of the Order. These records shall be available for inspection during normal business hours or shall be submitted to the authorized officer, when requested.

II. Drilling and Workover Requirements

Where drilling operations are expected to encounter H_2S, all H_2S related safety equipment shall be installed, tested, and placed in operation when drilling reaches a depth of approximately 1,000 feet above, or 7 days prior to penetrating (whichever comes first) the first zone containing or suspected of containing H_2S. If H_2S was not anticipated at the time the Application for Permit to Drill was approved but is encountered, the operator shall immediately seek to contain or neutralize the gas, suspend drilling ahead operations, obtain materials and safety equipment to bring the operation into compliance, and notify the authorized officer of the event and the mitigating steps that have or are being taken and request approval to resume drilling ahead operations.

The authorized officer may require additional safety measures in areas that are extremely hazardous or that require special treatment. The authorized officer also may require the use of manual H_2S detectors when operating in areas containing H_2S in any quantity. When requested, test results shall be recorded and reported in the manner prescribed by the authorized officer.

All proposed drill site locations shall be planned to obtain the maximum safety benefits consistent with the rig configuration, terrain, prevailing winds, etc. The locations of houses, schools, roads, work areas, recreational areas, etc., where people could be present within a 2-mile radius of the drilling location, shall be shown on a map or plat (See II.B.1.d.). The drilling rig shall, where possible, be situated so prevailing winds blow across the rig in a direction away from the escape route(s). Where possible, two entry roads shall be established, one at each end of the location, or as dictated by prevailing winds. If an alternate road is not possible, a clearly marked footpath shall be provided to a safe area.

The safety requirements of this section are specified for the 3 categories of Personnel Protection (on-site), Public Protection (Contingency Plan), and Operating Equipment.

A. Personnel Protection.

1. Training Program.
   a. All personnel, whether regularly assigned or contracted or employed on an unscheduled basis, shall be informed of the hazards of working in an H_2S environment. They shall also be instructed in the proper use of personal safety equipment, H_2S detectors and alarms, warning systems, briefing areas, evacuation procedures, and prevailing winds, by an instructor acceptable to the authorized officer.
   b. A weekly drill and training session for all personnel in each working crew shall be conducted and recorded on the driller's log. The instruction shall include first aid procedures, maintenance and use of protective breathing equipment, use of retrieval ropes with safety harnesses, and the advantages of working in pairs.
   c. At least 2 briefing areas shall be designated for assembly of personnel during emergency conditions, each at

least 200 feet from the well bore and located so 1 is upwind of the well at all times. The most normally upwind of the 2 locations shall be designated as the "Safe Briefing Area." Personnel shall be trained to practice routine observation of wind direction.

d. One person who regularly performs duties at the drilling site shall be designated and identified to all on-site personnel as the person primarily responsible for the overall operation of on-site safety and training programs.

2. Protective Equipment for Personnel.

a. All personnel on a drill site in H_2S environments shall have immediate access to proper protective breathing apparatus. The operator shall provide or require its drilling contractor to provide such equipment for the normal number of personnel involved in the drilling operation. The operator or its drilling contractor is not required to furnish protective-breathing equipment for service personnel, but the operator or its drilling contractor is required to inform service contractors of the necessity of having this equipment when called to the location. Lightweight, escape-type, self-contained breathing apparatus with a minimum of 5 minutes' supply shall be maintained at an easily accessible location for the derrickman and at any other location where escape from an H_2S contaminated atmosphere would be difficult. Additional protective breathing apparatus of the pressure-demand or positive pressure continuous-flow type (full-face piece that supplies breathing quality air for an extended period while maintaining a slight pressure inside the system) shall be provided for all personnel who are required to work in a hazardous H_2S environment. The operator shall assure that a proper respiratory protection program is implemented, in accordance with the American National Standard Practices for Respiratory Protection, Z.88.2–1980.

b. Storage and maintenance of protective breathing apparatus shall be planned to ensure at least 1 working apparatus is available for each rig hand regardless of current wind conditions.

c. Except for the 5-minute escape packs, each system shall have a working alarm signal for low air supply.

d. All personnel should be cleanshaven to assure a good seal of the mask to the face.

e. The following additional personnel safety equipment shall be available for use:

(1) Chalkboards and notepads for communication when using protective breathing apparatus;

(2) First aid supplies;

(3) Resuscitators;

(4) Litter;

(5) Harnesses and lifelines;

(6) Wind direction socks or streamers; and

(7) Telephone, radio, mobile phone, or any other device that provides instant communication from a safe area at the rig location.

3. Hydrogen Sulfide Detection and Monitoring Equipment.

Each drill site shall have an H_2S detection and monitoring system that activates audible and visible alarms when the concentration of H_2S reaches the threshold limit of 20 ppm in air. This equipment shall have a rapid response time and be capable of sensing a minimum of 10 ppm H_2S in air, with at least 3 sensing points, located at the shale shaker, on the derrick floor, and in the cellar. Other sensing points shall be located at other critical areas where H_2S might accumulate. The detection system shall be adequate for hazardous areas and installed and maintained, in accordance with the manufacturer's recommendations. The H_2S detection and monitoring equipment shall be calibrated daily when first installed and at least once every 8 hours when drilling, well completion, and/or workover operations are being conducted in an H_2S environment. All calibrations shall be conducted by qualified personnel and shall be recorded on the drillers log. Portable H_2S detection equipment capable of sensing an H_2S concentration of 20 ppm shall be available for all working personnel and shall be equipped with an audible warning singal. After H_2S has been detected by any device, an immediate inspection of all areas of poor ventilation shall be made. The sense of smell shall not be relied upon to detect the presence of H_2S. Early detection of possible H_2S concentration can be achieved by monitoring the mud chemistry. Such monitoring shall be required where and when the potential for H_2S exists.

4. Visible Warning System.

Equipment to indicate wind direction at all times shall be installed at prominent locations. At least 2 such wind socks or streamers shall be located at separate elevations, i.e., near ground level, rig floor, and/or treetop height. In addition, a wind sock at each of the 2 briefing areas shall be provided. All wind socks shall be clearly visible at all times so that wind direction is easily determined. When H_2S is encountered, operational danger signs shall be displayed on each side of the rig at the drill site and along all accesses to the site and shall be visible to approaching personnel. Each sign shall be painted a high-visibility yellow, with black lettering of sufficient size to be legible from 200–300 feet. Signs along the accesses shall be located at a safe distance from the site. The sign shall read:

DANGER—POISON GAS—HYDROGEN SULFIDE

and in smaller lettering:

Do Not Approach If Red Flag Is Flying

All signs and flags shall be illuminated under conditions of poor visibility, and at night. Where appropriate, bilingual or multilingual warning signs shall be used.

a. Moderate danger. The signs shall be displayed when H_2S is detected but is less that 20 ppm; detection efforts shall be intensified and steps taken to eliminate or neutralize the condition.

b. Intermediate danger. The action taken for moderate danger, in Section II.A.4.a. above, shall be continued when H_2S is determined to be in the 20–100 ppm range. Also, the red flags shall be hoisted, protective breathing apparatus shall be worn by all working personnel, and all nonworking personnel shall be moved to safe areas.

c. Extreme danger. All nonessential personnel, and all essential personnel as appropriate, shall be evacuated when H_2S exceeds 100 ppm concentration. Any personnel not evacuated shall be protected as provided above.

5. Ventilation Equipment.

All ventilation fans shall be explosion-proof and situated in areas when H_2S may accumulate. Portable fans to disperse H_2S vapors shall be provided in work areas. The rig layout shall be planned to achieve maximum benefit from natural ventilation.

B. *Public Protection.* When the conditions defined in Section I.D. exist, the following special precautions shall be taken to alert and protect the public.

1. Contingency Plan.

A written contingency plan providing details of action to alert and protect the public in the event of an accidental release of H_2S shall be submitted with an Application for Permit to Drill or Sundry Notice to the authorized officer (See Oil and Gas Order No. 1). The contingency plan shall be maintained and updated, as needed, and activated immediately after detection of release of a potentially hazardous volume of H_2S. A copy of the approved contingency plan shall be posted at the rig and at each briefing area. The details of the contingency plan will vary according to the site specific characteristics of the sour gas expected to be encountered and the number and proximity of the population potentially at risk. The plan shall include:

a. The responsibilities and duties of key personnel, instructions for alerting the public and requesting assistance, and the name of the person who has the authority to ignite the escaping gas.

b. A list of names and telephone numbers of residents and responsible parties of occupied buildings within the area of exposure. They shall be listed by wind sector and distance from the well site to ensure that those who are at the greatest risk are notified first. The plan shall define when and how people are to be notified in case of an H_2S emergency. Where a well is near a residential area, there shall be prescribed procedures for alerting nearby residents when well control problems become critical, but before an actual release of H_2S takes place. Face-to-face communication is the preferred method of notification. Where this is not a viable option, the use of siren(s), telephone, radio, and television shall also be employed, depending on the number of people at risk and their location with respect to the well site.

c. A telephone call list for requesting assistance from law enforcement, fire department, and medical personnel and State and Federal agencies, as required. Necessary information to be communicated and the emergency responses that may be required shall be listed. This information shall be based on previous meetings with these organizations.

d. A 2-mile radius plat of all private and public dwellings and other areas where the public might reasonably be expected to be present and provisions for advance briefings of the public, including:

(1) Hazards and characteristics of hydrogen sulfide;

(2) Necessity for an emergency action plan;

(3) Possible sources of hydrogen sulfide;

(4) Instructions for reporting a gas leak;

(5) The manner in which the public shall be notified of an emergency; and

(6) Steps to be taken in case of an emergency, including evacuation of any potentially endangered public and safeguards against property loss.

e. Guidelines for the ignition of the H_2S-bearing gas to produce a buoyant, less dangerous plume of sulfur dioxide. The plan shall clearly define when the gas is to be ignited and by whom. In populated areas, the decision to ignite a major release of H_2S gas shall occur as quickly as possible to minimize the prospect of public exposure to possibly harmful concentrations of H_2S.

In an area of high density population, or in other special cases, the authorized officer shall require more stringent plans to be developed. Until a release is brought under control, certain post-release activities shall be specified in a contingency plan to the authorized officer. These include the operator's monitoring of hydrogen sulfide around the well site together with meteorological conditions, maintenance of site security, communication of the well control status, and any other activities deemed necessary by the authorized officer.

2. Critical Operations and Curtailment Plans.

Certain operations performed under drilling and workover conditions are more critical than others with respect to the containment of potentially hazardous gases. Therefore, the authorized officer may require curtailment of certain operations for the protection of the public. Plans for critical operations shall be formulated at the time the Application for Permit to Drill is submitted for approval by the authorized officer. Prior to commencement of a critical operation, subsequent notice shall be given to the authorized officer.

C. *Operating Procedures and Equipment.*

1. General Operations.

Drill operations in H_2S areas shall be subject to the following requirements:

a. *Drill string trips or fishing operations.* Every effort shall be made to pull a dry string while maintaining well control. If it is necessary to pull the drill string wet after penetration of H_2S-bearing zones, continuous monitoring of the working area shall be provided and protective breathing apparatus worn.

b. *Circulating bottoms-up from a drilling break, cementing operations, logging operations, circulation while not drilling.* Continous monitoring of the working area shall be provided after penetration of an H_2S-bearing zone. Protective breathing apparatus shall be worn by those personnel in the working area for at least 15 minutes before and after bottoms-up.

c. *Coring operations in H_2S-bearing zones.* Personnel protective breathing apparatus shall be worn 10–20 stands in advance of retrieving the core barrel. Cores to be transported shall be sealed and marked for the presence of H_2S.

d. *Circulation medium for drilling H_2S-bearing zones.* If H_2S-bearing zones are encountered while drilling with air or gas as the circulating medium, the well shall be killed with a water or oil based mud and mud shall be used thereafter as the circulating medium for continued drilling.

e. *Abandonment or temporary abandonment operations.* Internal well abandonment equipment shall be designed for H_2S service.

f. *Logging operations after penetration of known or suspected H_2S-bearing zones.* Mud in use for logging operations shall be conditioned and treated to minimize the effects of H_2S on the logging equipment, or the logging equipment shall be designed for H_2S service.

g. *Gas-cut mud or well kick from H_2S-bearing zones.* Protective breathing apparatus shall be worn when an H_2S concentration of 20 ppm or more is detected. Should a decision be made to circulate out a kick, protective breathing apparatus shall be worn prior to and subsequent to bottoms-up and at any time during an extended kill operation when the concentration of H_2S becomes hazardous to personnel, as defined in paragraphs II.A.4.b. and c.

h. *Drill string precautions.* Precautions shall be taken to minimize drill string stresses caused by conditions such as excessive dogleg severity, improper stiffness ratios, improper torque, whip, abrasive wear on tool joints, and joint imbalance. American Petroleum Institute Bulletin RP 7G, or revision thereof, should be used as a guideline for drill string precautions. Tool-joint compounds containing free sulfur in excess of 0.3 percent shall not be used. Proper handling techniques shall be used to minimize notching, stress concentrations, and possible drill pipe failures.

i. *Flare system.* The flare system shall be designed to safely gather and burn H_2S-bearing gas. Flare lines shall be located as far from the operating site as feasible and in a manner to compensate for wind changes. The flare line(s) mouth(s) shall be located not less than 150 feet from the wellhead unless otherwise approved by the authorized officer. The flare system shall be equipped with a pilot and an automatic igniter. Where noncombustible gas is vented, the system shall be provided supplemental fuel for ignition and to maintain a continuous flare. All harmful gases created and released by flaring H_2S-contaminated gas, such as sulfur dioxide (SO_2), are subject to the requirements of Section IV. hereof.

j. *Kill line.* A kill line of ample strength, securely anchored, shall be laid to the wellhead from a safe location for emergency pumping into the well.

k. *Remote-controlled choke.* A remote-controlled choke shall be installed for H_2S drilling/completion and workover operations.

l. *Mud-gas separators.* A mud-gas separator (gas buster) shall be installed and operable prior to drilling into a suspected H_2S zone.

m. *Rotating head.* The authorized officer may require that a rotating head be installed and used in conjunction with the mud-gas separator prior to penetrating a suspected H_2S zone.

2. Mud Program.

a. Either water- or oil-base muds shall be used.

b. A pH of 10.0 or above in a water-base mud system shall be maintained to control corrosion and prevent sulfide stress cracking.

c. Sufficient quantities of additives shall be maintained on location to add to the mud system to scavenge and/or neutralize H_2S.

d. Corrosion inhibitors shall be applied to the drill pipe or to the mud system as a safeguard, in addition to the protection by pH control mentioned above.

e. Drilling mud containing H_2S gas shall be de-gassed in accordance with API recommendations at an optimum location for the rig configuration. These gases shall be piped into the flare system and burned at a remote location.

f. The mud weight shall be maintained in a balanced condition to prevent uncontrolled gas infiltration from an H_2S-bearing interval while drilling in or through that interval. Mud shall be continuously circulated through a de-gasser to rid the mud of gas.

3. Kick Detection and Well Control.

All efforts shall be made to prevent a well kick resulting from gas-cut mud, drilling breaks, lost circulation, or trips for bit change. In the event of a kick, the disposal of the well influx fluids shall be accomplished by one of the following alternatives, giving proper consideration to personnel and public safety, potential for environmental damage, and equipment capability.

a. *Alternative A.* The kick shall be controlled by using appropriate well-control techniques within the pressure limits of a well's equipment (drill pipe, casing, wellhead, blowout preventers, etc.). H_2S and other gases brought to the surface shall be disposed of through pressured or atmospheric mud-gas separator equipment, depending on volume, pressure, and concentration of H_2S gas. The equipment shall be designed to recover drilling mud, degas it, and vent and burn the separated gases. The mud system shall be treated to neutralize H_2S and to maintain the proper mud quality for well control.

b. *Alternative B.* In some situations, it may be possible and desirable to contain the kick by shutting in the well and pumping the influx fluids (bullheading the fluids) back into the formation. The mud system shall be treated to neutralize H_2S and to restore and maintain the proper mud quality for well control.

4. Well Testing in an H_2S Environment.

a. *Procedures.*

(1) Testing shall be performed, with a minimum number of personnel in the immediate vicinity of the test, using equipment to safely and adequately perform

the test to maintain related services. Except with prior approval by the authorized officer, the drill-stem testing of H_2S zones shall be conducted only during daylight hours.

(2) Prior to initiation of the test, special safety meetings for all affected personnel shall be conducted, with emphasis on the use of personnel protective breathing apparatus, first aid procedures, and the contingency plan procedures, as required.

(3) During the test, the required H_2S detection equipment shall be in operation and monitoring shall be maintained on a continuous basis. All produced gases shall be vented and burned through a flare system that meets the requirements of paragraph II.C.1.i. Gases from any stored fluids shall be vented into the flare system.

(4) "No Smoking" rules shall be enforced.

b. *Equipment.*

(1) Drill-stem test tools, wellhead equipment, and other testing facilities shall be suitable for H_2S service.

(2) Tubing that meets the requirements for H_2S service may be used for drill stem testing.

(3) The water cushion shall be thoroughly treated with inhibitors to prevent H_2S corrosion. The test string shall be flushed with a neutralizing fluid to dissipate the H_2S after completion of the test.

(4) All surface test units and related equipment shall be designed for H_2S service. Only competent personnel, trained in the hazardous effects of H_2S, shall be utilized in these tests.

5. Metallurgical Equipment Considerations.

To resist or prevent stress, corrosion, cracking, and/or H_2S embrittlement, the equipment shall be constructed of material whose metallurgical properties are chosen with consideration for both an H_2S working environment and the anticipated stresses. The metallurgical properties of the materials used shall conform to NACE Standard MR-01-75, Material Requirement, Sulfide Stress Cracking Resistant Metallic Material for Oil Field Equipment. These metallurgical properties include the grade of steel, the processing method (rolled, normalized, tempered, and/or quenched), and the resulting strength properties. The working environment considerations include the H_2S concentration, the well fluid pH; and the wellbore pressures and temperatures. For drilling and workover operations, such equipment includes the drill string, casing, wellhead, blowout preventers, kill lines, choke manifold, valves, mud-gas separators, and other related equipment. Each Application for Permit to Drill and each Sundry Notice to workover a well shall describe precautions to be taken to protect equipment from the hazards of an H_2S environment. The following general practices are required for acceptable performance.

a. *Drill string.* Drill strings shall be designed for the anticipated depth, conditions of the hole, and the wellbore environment. Care shall be taken to minimize exposure of the drill string to high stresses, as practical and consistent with the anticipated hole conditions.

b. *Casing and Tubing.* Casing, tubing, couplings, flanges and related equipment shall be designed for H_2S service.

c. *Wellhead, blowout preventers, and pressure control equipment.* The blowout preventer stack assembly shall be designed for use in a H_2S environment. Surface equipment such as choke lines, choke manifold, kill lines, pressure gauges, bolting, welds, and other related well-killing equipment shall be designed to resist or prevent sulfide stress cracking. There should be no thread connections upstream of the choke manifold or on outlets in the wellhead or blowout preventer. The casing head and spool shall meet the same requirements as the blowout preventer. Elastomers, packing, and similar inner parts exposed to H_2S shall be resistant at the maximum anticipated temperature of exposure.

III. Producing Operations

Except for storage tanks, a determination of the radius of exposure for all production systems shall be made in the manner prescribed in Section I of this Order.

A. *Storage Tanks.* Storage tanks utilized as part of a production operation and operated at or near atmospheric pressure, where the vapor accumulation has an H_2S concentration in excess of 100 ppm, are subject to the following:

1. No determination of a radius of exposure need be made for storage tanks as herein described.
2. All stairs/ladders leading to the top of storage tanks shall be chained and/or marked. A warning sign shall be posted on or within 50 feet of the facility to alert the general public of the potential danger. The sign shall be painted a high-visibility yellow, with black lettering of sufficient size to be legible from 200–300 feet. The sign shall state:

DANGER—POISON GAS—HYDROGEN SULFIDE

Where appropriate, bilingual or multilingual warning signs shall be used.

3. Fencing as an additional security measure shall be required when storage tanks are located within a townsite or city or within ¼ mile thereof, or where conditions are such that the public generally has free access to the storage tanks.
4. All stock tank installations, not currently equipped, shall be converted to closed systems within 150 days after the effective date of this Order. Such systems shall provide methods for gauging, sampling, and determining the temperatures without direct entry into the system, and for containment of vapors by recovery or burning. Alternatives to this requirement or an extension of time in which to comply shall be considered and may be approved by the authorized officer upon written request by the operator. This request shall include reasons for the requested delay or variance and, in the latter case, shall specify the alternative methods to be used for protecting personnel and public safety.

Stock tank vapors with H_2S concentrations in the 20–100 ppm range are not subject to the above requirements because of the lower concentrations of H_2S emissions. However, these concentration levels are hazardous to personnel who are required to work in close proximity thereto. Therefore, the operator shall provide such personnel with H_2S safety equipment and training, encourage working in pairs and post appropriate danger signs.

B. *Other Surface Production Facilities.* Warning signs shall be required in the case of fixed surface facilities (other than stock tanks) where the 100 ppm radius of exposure is in excess of 50 feet. Warning signs also shall be provided for well flowlines and lease gathering lines that carry sour gas. The design and placement of such signs shall conform to paragraph III.A.2. and be clearly visible on roads that provide direct access to such facilities or lines. Fencing or other security measures shall be required when such facilities are located within a city or townsite or within ¼ mile thereof or where conditions are such that the public generally has free access to the facilities or lines.

C. *Personnel Protection.* The appropriate personnel safety and protection requirements contained in Section II.A of this Order shall be applicable to leasehold production operations. A lightweight, self-contained, escape-type breathing apparatus is suitable for personnel who normally work alone. Producing operations in an H_2S environment are more likely to result in H_2S exposure than drilling or workover operations (i.e., continuation over a longer period of time, more instances in which personnel work alone, situations where contractors work unsupervised, and leaks or equipment failures that result in normally safe areas becoming hazardous). Therefore, the operator's responsibility for personnel safety in a producing scenario is critical because of the increased potential for exposure. Hence, in addition to providing the required protective breathing and detection equipment, wind direction indicators, etc., the operator shall provide all employees with adequate education as to the hazards of working in an H_2S environment through regularly scheduled and impromptu safety meetings and bulletin board postings. Adequate two-way radio communication should be provided for personnel who work alone to enable them to issue an appropriate and timely warning in the event they detect a leak or need assistance.

D. *Public Protection.* When conditions as defined in Section I.D. exist, the contingency plan shall be activated and the authorized officer notified. The plan shall include all appropriate requirements listed in Section II.B.1. One such plan is required per lease or field, as specified by the authorized officer. However, when the plan is intended cover the operator's total operations in a field, it shall include alternate actions for the various subsystems of geographic locations, as necessary, to cover the larger areal limits.

E. *Operating Procedures and Equipment.*

1. Producing wells, unless produced by artificial lift, shall have 2 master valves, a packer, and corrosion-inhibiting fluid. An automatic or surface-activated subsurface safety control valve set below

100 feet shall be installed in the tubing. Alternatives to this requirement shall be considered and may be approved by the authorized officer upon written request by the operator. This request shall include reasons for the variance and alternative methods for personnel and public protection. In either case, approval of the producing string and associated safety equipment shall be obtained prior to installation.

2. Surface systems shall have automatic closing devices to prevent uncontrolled flow in the event of equipment failure. of facilities shall be resistent to hydrogen sulfide stress cracking under the existing operating conditions. No field welding is permitted without proper stress relieving.
4. Materials and equipment in existing facilities with no record of failure from sulfide stress cracking shall be considered adequate.
5. In the event of a failure of any element of an existing system as a result of hydrogen sulfide stress cracking, the incident shall be reported to the authorized officer, with plans for the inspection, protection, or replacement of similar elements of the system.
6. Corrosion coupons or other methods to monitor corrosion rates shall be installed in all systems in which the H_2S concentration is 100 ppm or greater. If prohibitive corrosion rates are detected, the facilities shall be protected by an inhibitor or other suitable means.
7. H_2S detectors that activate a flashing light or other visual or audio alarm shall be installed near each producing well. If practicable, a sensor shall be connected so an alarm signal is transmitted to a remote but monitored facility. The H_2S detectors shall be calibrated when installed and at least twice weekly thereafter. All calibrations shall be conducted by qualified personnel and shall be recorded on the production operations report.
8. If practicable, wells shall be monitored and controlled from remote points.

IV. Sulfur Dioxide Operations

Sulfur dioxide (SO_2) may be produced from flaring of H_2S or from enhanced recovery operations, such as fire flooding or water injection. Where the sulfur dioxide is expected, the following requirements apply.

A. *Drilling and Workover Requirements.* Personnel protection and public protection requirements described under Sections I.A. through E. and II.A. and II.B. of this Order also are generally applicable to the SO_2 emission situations, with appropriate modifications for SO_2 being made. The following classifications of danger shall be used for warning and taking personnel protective measures in case of the presence of SO_2 emissions.

1. *Moderate danger.* The sign shall be displayed when SO_2 is detected but is less than 20 ppm; and the 6-hour average of SO_2 concentration does not exceed 5 ppm detection efforts shall be intensified and steps taken to eliminate or neutralize the condition.
2. *Intermediate danger.* When the above concentrations are exceeded but are below 100 ppm, the effort described above continues, the flags shall be hoisted, protective breathing apparatus and protective clothing shall be worn by working personnel, and all nonworking personnel shall be moved to safe areas.
3. *Extreme danger.* When the SO_2 concentration exceeds ppm, all nonessential personnel, and all other personnel as appropriate, shall be evacuated. Any personnel not evacuated shall be protected as provided above.

B. *Producing Operations.* With appropriate modifications with respect to SO_2, requirements in Sections III.A. throuh D. also are generally applicable to operations in a SO_2 environment.

Date

Assistant Director, Fluid Leasable Minerals

Approved:

Date

Director, Bureau of Land Management

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October 15, 1984

Part V

Department of Education

34 CFR Part 221

Assistance for School Construction in Areas Affected by Federal Activities; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 221

Assistance for School Construction in Areas Affected by Federal Activities

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes to amend the regulations implementing the School Construction Program. The proposed regulations result from a review of current regulations and are designed to clarify requirements and to reduce regulatory burdens on applicants and grantees.

DATES: Comments must be received on or before December 14, 1984.

ADDRESS: Comments should be addressed to Dr. David G. Phillips, Division of Impact Aid, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–6272.

FOR FURTHER INFORMATION CONTACT: Dr. David G. Phillips. Telephone: (202) 245–1975.

SUPPLEMENTARY INFORMATION:

Statutory Authorization and Regulatory Implementation

Assistance for School Construction in Areas Affected by Federal Activities—referred to in this notice of proposed rulemaking (NPRM) as the School Construction Program—has been part of the Impact Aid or SAFA Program since 1951. It is authorized by Pub. L. 81–815, as amended (64 Stat. 967, 20 U.S.C. 631–645).

The current regulations implementing the program were published on April 8, 1975 (40 FR 16012) as part 114 of Title 45 of the Code of Federal Regulations (CFR). The regulations were subsequently redesignated as 34 CFR Part 221 (45 FR 77368; November 21, 1980).

Description of Program

Under the School Construction Program the Secretary provides assistance to local educational agencies (LEAs) in whose school district Federal activities affect the size of student memberships, the children's need for facilities, and the LEAs' ability to finance the construction of school facilities.

Federal financial assistance awarded under the program is intended to help grantees construct or otherwise provide urgently needed minimum school facilities for eligible children. These facilities must meet State standards.

Statutory Requirements

While the authorizing statute leaves to the Secretary's discretion certain aspects of the operation of the program, the statute is relatively explicit with regard to a number of requirements.

The statute clearly designates, for example, the types of pupils for whom an LEA is eligible to receive assistance and the minimum number of percentage of these types of pupils an LEA must have to qualify for assistance.

The statute also establishes priorities for funding, specifies the Federal share of a project, limits total payments to an LEA, states conditions under which the Secretary may consider supplemental payments, and specifies circumstances under which the Secretary may grant a waiver or reduction of certain requirements.

Under section 9 the statute contains special provisions governing assistance if an increase in an LEA's membership results from a temporary Federal activity. In addition, under section 10, the statute authorizes the Secretary to arrange for facilities for certain types of pupils for whom an LEA is unable to provide a suitable free public education. The manner in which the Secretary handles requests for assistance under section 10 is discussed in greater detail elsewhere in this preamble.

NPRM Published in June 1979

On June 29, 1979, the Commissioner of Education published in the **Federal Register** (44 FR 38184) an NPRM proposing a number of changes in the current regulations. The changes were designed principally to simplify and clarify the regulations in order to "promote the efficiency and effectiveness" of the program. Interested persons were given 30 days to submit comments or recommendations.

Many comments were received, and the Secretary has considered all of them in preparing these proposed regulations. However, because of the time that has elapsed and because this version of the document contains a number of substantive changes, the Secretary has decided to publish the document as an NPRM and is again inviting public comment.

General Changes in These Proposed Regulations

Some of the changes to the current regulations were included in the NPRM published in June 1979. Other changes result from a review of both the current regulations and that NPRM for the purpose of deregulation.

Among the general changes in the proposed regulations are these:

- The proposed regulations are written in clear, simple English to enhance comprehension by users and other interested parties.
- The provisions of the proposed regulations have been rearranged into a more logical format to aid users.
- The proposed regulations would reduce regulatory burdens by omitting or amending many provisions that exceed statutory authority or that impose excessive paperwork and other requirements on applicants and grantees. The proposed regulations would also eliminate other provisions that are overly prescriptive or unnecessarily repetitious.
- As much as possible, the proposed regulations would leave decision-making to local authorities.
- The proposed regulations contain clearly stated, realistic examples to assist users in understanding complicated formulars and certain other requirements.

Specific Changes in These Proposed Regulations

The specific changes incorporated into this NPRM include the following:

- The proposed regulations would no longer require an LEA to use a prescribed parent-pupil survey in order to obtain an accurate count of pupils. Instead, the NPRM would specify the minimum information the LEA must obtain to identify each federally connected pupil and leave it to each LEA to determine (1) the means of obtaining the count of pupils and (2) what additional information, if any, the LEA would need on file to substantiate the eligibility of children claimed for payment.

For example, the proposed regulations would enable an LEA to avoid duplication and save time and money by permitting the LEA, if it so chooses, to obtain the minimum required information through a parent-pupil survey used by the LEA that same year to identify federally connected children for school assistance grants for maintenance and operation under the Impact Aid Program. In other words, it would not be necessary for the LEA to conduct a second survey or even to transfer the applicable information onto forms for individual pupils.

In addition, the Invitation To Comment section of this preamble specifically asks readers to comment on these proposed requirements and invites suggestions if readers believe there could be a further reduction in burden.

- The proposed regulations would no longer prescribe in detail the required documentation to describe a merger,

consolidation, or similar action affecting an LEA's boundaries, classification, or jurisdiction. Instead, the NPRM would require a successor LEA to (1) demonstrate to the Secretary's satisfaction that its succession meets all requirements of State law and (2) agree to be bound by all assurances and obligations under this part undertaken by the LEA(s) that it has succeeded.

• The proposed regulations would omit many unncessary and non-statutory requirements, including the following:

—The prescriptive provisions governing the Secretary's determination of an LEA's undue financial burden, if applicable.

—The special formula for determining priority indices in cases in which an applicant files applications for more than one project.

—Most or all of the detailed requirements related to (1) the procurement of school facilities under sections 9, 10, and 14 of the Act, (2) requests for construction under section 10 of the Act, (3) property management under sections 9 and 10 of the Act, (4) disposal of facilities provided under section 9 of the Act, and (5) transfer of title of federally owned school facilities under section 10 of the Act. This does not represent a change in policy. Rather, it is designed to remove from regulations provisions that the Secretary includes in deeds and other legal instruments covering these procedures.

• The proposed regulations would alter current provisions governing payments under section 10 of the Act by distinguishing between expenditures for the maintenance, repair, or upgrading of *existing* Federal facilities under the jurisdiction of the Secretary and assistance for the construction of *new* Federal facilities under section 10. The proposed regulations would eliminate a competitive selection process for grants to maintain, repair, or upgrade existing Federal facilities but would retain a competitive selection process for the construction of new facilities (see §§ 221.93 and 221.94).

• The proposed regulations would eliminate the Appendix of guidelines containing recommendations and suggestions for meeting the requirements of the Act and included in the CFR at the end of the current regulations for this program.

Significant Aspects of These Proposed Regulations

In proposing these regulations the Secretary wishes to draw the attention of readers to a number of matters that, the Secretary believes, would benefit from additional explanation, as follows:

Types of Children No Longer Eligible

The Act does not permit an applicant to count certain types of previously eligible children in any application submitted after September 30, 1983. The Secretary interprets this to mean any application submitted after the announced June 30, 1983, cutoff date for applications for assistance in fiscal year 1984 and beyond.

The types of children an LEA may no longer count are as follows:

• A child who resides on Federal property—other than Indian lands—but whose parent is neither on active duty in the uniformed services nor employed on Federal property (section 5(a)(2)(B) of the Act).

• A child who does not reside on Federal property even if the parent is on active duty in the uniformed services or is employed on Federal property (sections 5(a)(2)(A) and 5(a)(2)(C) of the Act).

• A child whose membership in the LEA results from an activity of the United States carried on either directly or through a contractor (section 5(a)(3) of the Act).

The types of children that an LEA may no longer count are, thus, excluded from the term "federally connected children" as that term is used in these proposed regulations.

Temporary Federal Activity

Section 9 of the Act provides for assistance if the membership of an LEA is increased as a result of a temporary Federal activity of one to six years' duration. The duration applies to the *Activity* and not to the time that any particular child is in the LEA's membership.

The LEA includes this type of child in establishing the LEA's *eligibility* under section 5 of the Act, in terms of the LEA's meeting minimum increase requirements. However, in providing *assistance* to the LEA, the Secretary distinguishes between a child identified under section 5 and a child identified under section 9.

Eligibility vs. Payment

An LEA may count all federally connected children in its membership to determine the minimum number or percentage of increase that establishes the LEA's *eligibility*. However, the number of children on which the Secretary bases *payment* to the LEA is determined by the provisions of various sections of the Act.

Factors that may affect payment include, among others: the increase in the number of federally connected children since the base year; the number of children for which the Secretary has not previously granted assistance under this program; the number of children in need of minimum school facilities; and the duration of the Federal activity with which children are associated.

Use of Preapplications

Readers should note that initial requests for assistance under this program—except for requests under section 10 of the Act—are made to the Secretary through preapplications. If the information included in a preapplication qualifies and LEA for assistance, and if the Secretary believes there will be sufficient funds for a grant, the Secretary invites the LEA to submit an application.

Applications under Section 14 of the Act

The Secretary funds an application under section 14 (a), (b), or (c) of the Act only if the Secretary is unable to provide the applicant with sufficient funds for its project under other sections of the Act. Thus, before considering a preapplication or an application under section 14, the Secretary considers the preapplication or application as though it has been submitted under another section; that is, under section 5, 8, or 9, as appropriate.

Use of Estimates

The Act authorizes assistance on the basis of *estimated* numbers of children. Initial estimates are made by an applicant and included in its preapplication. All data in the preapplication are subject to review and verification by the Secretary (1) before the Secretary makes a final determination regarding eligibility, and (2) at the time the Secretary approves a project.

Certification by SEAs

Several provisions of the Act require the Secretary to consult with respective SEAs in considering applications from LEAs. The Secretary believes that the intent of the consultative process within the context of the Act can be met expeditiously by requiring each applicant LEA to submit its application to its SEA for certification. The Secretary does not give consideration to a preapplication or an application that lacks this certification. In addition to certifying a preapplication or an application, an SEA is also free to comment on the document.

Measurements of School Facilities

It is important to distinguish between "facilities available to the LEA" and "minimum school facilities." Although

both terms are defined in § 221.5(c) of these proposed regulations, readers might find it helpful to note some differences. "Facilities available to the LEA" are school facilities that the LEA has or could obtain, as explained in the definition of that term in § 221.5(c). "Minimum school facilities" are facilities that the LEA needs to conduct an educational program that meets State requirements. Under the School Construction Program the Secretary provides assistance to help the LEA makeup the difference between facilities available to the LEA and facilities the LEA needs.

Ineligible Facilities

Certain types of school facilities are outside the definition of "minimum school facilities" and, therefore, may not be acquired with funds under the School Construction Program. Minimum school facilities are those facilities an LEA needs to carry out a school program only for the normal capacity of a given school. Thus, for example, the LEA may not use funds under this program to construct at the school—or elsewhere—a gymnasium, athletic field, auditorium, or other facility intended principally to serve or benefit the general public.

Similarly the LEA may not use funds under this program to construct that portion of a facility whose capacity or equipment exceeds the needs of the regular program and normal capacity of the school. For example, if the LEA wishes to construct a library for use by the general public, as well as by the pupils in a school, the LEA must finance that portion of the library—and any additional equipment—that exceeds the regular needs of the pupils in that school.

Assistance under Section 10 of the Act

Section 10 schools are the property of the U.S. Government. The Secretary provides assistance under this section of the Act for two types of needs: (1) the repair, maintenance, upgrading, or replacement of existing facilities, and (2) the construction of new, nonreplacement facilities. In the case of the former, the Secretary determines the extent and urgency of need and, in any given year, provides assistance to the extent possible. In the case of the latter, if funds are available, the Secretary invites requests—generally from other Federal agencies whose activities result in the presence of children needing school facilities—and establishes priorities among the requests received.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executve Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

The small entities affected by these proposed regulations would be small LEAs; the number of LEAs funded under the program is not substantial; and the proposed regulations would not impose burdensome requirements on applicants or grantees.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local process for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.
Invitation to Comment

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before December 14, 1984 will be considered before the Secretary issues final regulations.

The Secretary is especially interested in receiving from LEAs comments on the provisions of § 221.42 regarding information an LEA needs to support a preapplication and an application under this program and the methods the LEA may use to obtain this information. If an LEA believes that any of these requirements is unnecessarily burdensome, the Secretary invites suggestions as to how the burden might be reduced.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2107, 400 Maryland Avenue, SW., Washington, D.C. between the hours of 8:30 a.m and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Paperwork Reduction Act of 1980

The information collection requirements contained in these proposed regulations will be sent to OMB for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Information collection requirements are contained in the following sections: 221.10, 221.14, 221.15, 221.20, 221.21(d), (e); 221.24, 221.25, 221.28, 221.29, 221.32, 221.33, 221.36(a), b(2); 221.38, 221.40, 221.42, 221.43, 221.48, 221.49, and 221.63(b).

Comments that only concern information collection requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education.

All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

List of Subjects on 34 CFR Part 221

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Reporting and recordkeeping requirements, School construction.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: October 9, 1984.

(Catalog of Federal Domestic Assistance No. 84.040, School Assistance in Federally Affected Areas—Construction)

T.H. Bell

Secretary of Education.

The Secretary proposes to revise Part 221 of Title 34 of the Code of Federal Regulations to read as follows:

PART 221—ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Subpart A—General

Sec.

221.1 Assistance for School Construction in Areas Affected by Federal Activities.
221.2 Who is eligible under the School Construction Program?
221.3 What regulations apply to the School Construction Program?
221.4 Under what circumstances may the Secretary waive or reduce requirements?
221.5 What definitions apply to the School Construction Program?

Subpart B—What Are the Specific Eligibility Requirements for Assistance Under the School Construction Program?

Eligibility Under Section 5 of the Act

221.10 What are the requirements for eligibility under section 5 of the Act?
221.11 What children may be counted as federally connected?
221.12 How does an LEA measure an increase?
221.13 What is the required minimum increase in the number or percentage of an LEA's federally connected children?
221.14 Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number of federally connected children?
221.15 Under what circumstances may an LEA request a waiver or reduction of the minimum percentage increase in the number of federally connected children?

Eligibility Under Section 9 of the Act

221.20 What are the requirements for eligibility under section 9 of the Act?
221.21 What other requirements apply to eligibility under section 9?

Eligibility Under Section 14(a) of the Act

221.24 What are the requirements for eligibility under section 14(a) of the Act?
221.25 What requirements for eligibility under section 14(a) are subject to waiver or exemption?

Eligibility Under Section 14(b) of the Act

221.28 What are the requirements for eligibility under section 14(b) of the Act?
221.29 What requirements for eligibility under section 14(b) are subject to waiver or exemption?

Eligibility Under Section 14(c) of the Act

221.32 What are the requirements for eligibility under section 14(c) of the Act?
221.33 What requirements for eligibility under section 14(c) is subject to waiver?

Eligibility Under Section 8(1) of the Act

221.36 What are the requirements for eligibility under section 8(1) of the Act?

Eligibility Under Section 8(2) of the Act

221.38 What are the requirements for eligibility under section 8(2) of the Act?

Subpart C—How Does an LEA Apply for Assistance Under the School Construction Program?

221.40 What are the general requirements for submitting a preapplication and an application under the School Construction Program?
221.41 During what year must an LEA file its preapplication?
221.42 What information does an LEA need to support a preapplication and an application under the School Construction Program?
221.43 What general provisions apply to a request for a waiver or reduction of certain requirements?
221.44 What information must an SEA certify?
221.45 What procedures does an SEA follow in certifying a preapplication or an application?
221.46 How may an SEA comment on a preapplication or an application?
221.47 What types of comments does the Secretary consider?
221.48 What are the requirements for submitting an application under section 8(2) of the Act?
221.49 What general requirements apply to changes in an LEA's legal organization or jurisdiction?

Subpart D—How Does the Secretary Determine Priorities for Funding Among Eligible Applications?

221.50 What priorities does the Secretary apply?
221.51 How does the Secretary compute priority indices and rank preapplications?
221.52 What procedures does the Secretary follow if two or more preapplications in the same group have identical indices?
221.53 What effect may a delay in the starting date of construction have on an applicant's priority ranking?

Subpart E—How Much Assistance Is Available Under the Act?

221.60 What assistance may the Secretary make available under section 5 of the Act?
221.61 What assistance may the Secretary make available under section 9 of the Act?
221.62 What assistance may the Secretary make available under section 14 of the Act?
221.63 What assistance may the Secretary make available under section 8 of the Act?
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Authority: Pub. L. 81–815, as amended, 64 Stat. 967 (20 U.S.C. 631–645), unless otherwise noted.

Subpart A—General

§ 221.1 Assistance for School Construction in Areas Affected by Federal Activities.

(a) The program of Assistance for School Construction in Areas Affected by Federal Activities—referred to in these regulations as the School Construction Program—provides Federal financial assistance to help local educational agencies (LEAs) construct urgently needed minimum school facilities in school districts that have been affected by various Federal activities.

(b)(1) Under the School Construction Program the Secretary—as authorized in section 10 of the Act (Pub. L. 81–815)—may also make arrangements with another Department or agency to provide minimum school facilities for certain federally connected children in cases in which no LEA is able to provide a suitable free public education for these children.

(2)(i) The provisions governing these arrangements are contained in Subpart H of these regulations.

(ii) These arrangements do not provide assistance directly to an LEA.

(20 U.S.C. 631–645, 647)

§ 221.2 Who is eligible under the School Construction Program?

(a) *Assistance.* (1) The types of LEAs listed in paragraphs (b) through (f) of this section are eligible for assistance under the School Construction Program.

(2) Each paragraph refers to a specific section of Pub. L. 81–815, entitled School Construction in Areas Affected by Federal Activities, referred to in these regulations as "the Act."

(b) *Eligibility under section 5.* (1) An LEA is eligible under section 5 of the Act because of an increased number of federally connected children.

(2) The requirements for eligibility under section 5 are contained in §§ 221.10 and 221.15 of these regulations.

(c) *Eligibility under section 9.* (1) An LEA is eligible under section 9 of the Act because a temporary Federal activity has caused an increase in the number of federally connected children.

(2) The requirements for eligibility under section 9 are contained in §§ 221.20 and 221.21.

(d) *Eligibility under section 14(a) and 14(b).* (1) An LEA is eligible under section 14(a) or 14(b) of the Act if it—

(i) Serves children residing on Indian lands; and

(ii) Has financial need.

(2) The requirements for eligibility under section 14(a)—including the criteria for determining financial need—are contained in §§ 221.24 and 221.25.

(3) The requirements for eligibility under section 14(b) are contained in §§ 221.28 and 221.29.

(e) *Eligibility under section 14(c).* An LEA is eligible under section 14(c) of the Act if—

(i) A substantial portion of the land area in the LEA's school district is Federal property; and

(ii) The LEA has financial need.

(2) The requirements for eligibility under section 14(c)—including the criteria for determining financial need—are contained in §§ 221.32 and 221.33.

(f) *Eligibility under section 8(1) and 8(2).* (1) An LEA is eligible for supplementary assistance under section 8 of the Act if the LEA has already established its eligibility under section 5, 9, or 14 of the Act.

(2) The requirements for eligibility under section 8(1) are contained in § 221.36.

(3) The requirements for eligibility under section 8(2) are contained in § 221.38.

(g) *Arrangements.* Another Department or agency is eligible to enter into an arrangement with the Secretary for the provision of minimum school facilities under section 10 of the Act if the requirements for an arrangement under § 221.90 are satisfied.

(20 U.S.C. 635, 638–640, 644)

§ 221.3 What regulations apply to the School Construction Program?

The following regulations apply to the School Construction Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants) except for the following:

(i) Section 74.94 (Payment methods under construction grants).

(ii) Subpart Q (Property).

(2) 34 CFR Part 75 (Direct Grant Programs) except for the following:

(i) Section 75.603 (Grantee's title to site).

(ii) Section 75.605 (Beginning the construction).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations) except for the following terms:

(i) "Local educational agency" (LEA).

(ii) "State."

(iii) "State educational agency" (SEA).

(4) 34 CFR Part 78 (Education Appeal Board) if the Secretary refers to the Education Appeal Board a request for an administrative hearing under section 11(a) of the Act.

(5) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in 34 CFR Part 218 (Hearings in Connection with School Construction and Financial Assistance in Federally Impacted Areas).

(c) The regulations in this Part 221.

(20 U.S.C. 3474)

§ 221.4 Under what circumstances may the Secretary waive or reduce requirements?

(a) The Secretary may waive or reduce certain requirements of this part—governing an LEA's eligibility to participate in the School Construction Program or limiting the amount of payment on LEA may receive under the program—if the Secretary determines that a waiver or reduction is necessary—

(1) To avoid inequity; and

(2) To avoid defeating the purposes of the Act.

(b) The general provisions that apply to the waiver or reduction of certain requirements are in § 221.43.

(c) The specific requirements that the Secretary may waive or reduce and the circumstances under which the Secretary may waive or reduce these requirements are identified in applicable provisions of this part.

(20 U.S.C. 635, 639, 644)

§ 221.5 What definitions apply to School Construction Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 15 of the Act:

Base year
Child
Construct, Constructing, Construction
Federal property
Free public education
Increase period
Indian lands (included in the definition of "Federal property")
Local educational agency (LEA)
Low-rent housing (included in the definition of "Federal property")
Parent
School facilities
State
State educational agency (SEA)

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77 (Definitions that Apply to Department Regulations):

Applicant
Application
Award
Department
EDGAR
Equipment
Fiscal year
Grant
Grantee
Project
Secretary
Work of art

(c) *Definitions that apply to this part.* The following definitions apply to this part:

"Attendance area" means the geographic area in which the children normally served by a school reside.

(20 U.S.C. 635(e), 644 (a), (b), (c))

"Average daily membership" means—

(1) The definition given to that term by State law; or

(2) If State law does not define the term, the total days of membership of all pupils in an LEA's schools divided by the total number of days the schools were in session.

(20 U.S.C. 645(5))

"Contracts-let-date" means the date of which the Secretary files with the Office of the Federal Register a notice setting a closing date for receipt of preapplications.

(20 U.S.C., 634)

"Facilities available to the LEA."

(1) This term means classrooms and related facilities, such as the following, which the Secretary considers in determining an LEA's need for assistance under this part:

(i) Existing school facilities constructed for educational purposes and currently suitable for instruction.

(ii) All school facilities for which a construction contract has been awarded before the contracts-let-date.

(iii) Facilities constructed or to be contructed, contracted for, or supported with financial assistance under any other grant under the Act—that is, under the School Construction Program or under the Program of School Construction Assistance in Cases of Certain Disasters (section 16 of the Act)—or under any other type of assistance.

(iv) Portable facilities used for instuction if—

(A) The facilities were purchased with funds under the Act; or

(B) The State counts the facilities as instructional facilities for the purpose of computing State construction aid.

(v) If the LEA is applying under section 8, 14(a), or 14(c) of the Act, potential facilities available to the LEA that could be built using, local, State, or other Federal sources, including other funds under the Act.

(2) This term does not mean—

(i) Areas unsuitable for education, such as hallways and basement rooms not constructed for educational purposes; and

(ii) Facilities that must be abandoned by the end of the second year following the increase period, for applicants under sections 5, 8(1), and 9, or by the end of the second year following the school year for which the applicant seeks assistance, for applicants under section 14.

(20 U.S.C. 631, 634, 645(10))

"Federally connected children" means those children whose inclusion in an LEA's membership results from a permanent or temporary Federal activity. Each of these children can be identified in one of the categories listed in § 221.11.

(20 U.S.C. 238(a), 644(a))

"Isolated" means, with reference to an attendance area, that distance, topography, climate, traffic conditions, or another factor makes it impracticable to transport children in that attendance area to other school facilities.

(20 U.S.C. 635(e), 644 (a), (b), (c))

"Membership."

(1) This term means—

(i) The definition given to the term by State law; or

(ii) If State law does not define the term, the number of children listed on an LEA's current enrollment records.

(2) As used in paragraph (1)(ii) of this definition, this term does not include children who have—

(i) Permanently left the LEA; or

(ii) Otherwise become ineligible to attend classes there.

(3) If a child resides in the school district of an LEA that pays tuition to another LEA in whose district the child attends school, the child is counted in—

(i) The membership of the LEA of the child's district of residence; or

(ii) If both LEAs agree and the Secretary approves, the membership of the LEA in whose district the child attends school.

(20 U.S.C. 645(5))

"Minimum school facilities."

(1) This term means those school facilitates for which the Secretary may provide assistance under this part if—

(i) The Secretary, after consultation with the SEA and the LEA, considers these facilities necessary to support an educational program—

(A) For the membership to be served at normal capacity; and

(B) In accordance with the laws and common practice in the State; and

(ii) To the extent appropriate in view of the uses to be made of the facilities, they are accessible to and usable by handicapped persons.

(2) The term includes, but is not restricted to—

(i) Classrooms and auxiliary rooms; and

(ii) Machinery, utilities, and initial equipment, to the extent that these are necessary or appropriate for school purposes.

(3) The Secretary also considers the term to include—

(i) Works of art at a cost that does not exceed one percent of the cost of the project;

(ii) Within school buildings, spaces that—

(A) Provide shelter from nuclear fallout; and

(B) Are constructed at a nominal cost as part of a larger project; and

(iii) In the case of an application under section 9 or 10 of the Act, off-site improvements and interests in land.

(20 U.S.C. 639, 640, 644, 645(9), (10), EO 11490)

"Non-Federal share" means that portion of a project's cost supplied by a source or sources other than the Secretary under this Act.

(20 U.S.C. 635)

"Normal capacity" means the number of pupils a school facility accommodates under ordinary conditions according to the laws and common practice of the State in which the facility is located.

(20 U.S.C. 634, 645(9), (10))

"Temporary," with reference to an activity, means an activity of the United States—

(1) Carried on either directly or through a contractor; and

(2) Continuing for at least one year but not more than six years.

(20 U.S.C. 635, 639)

"Unhoused children" means those children in an LEA's membership whose number exceeds the normal capacity of facilities available to the LEA.

(20 U.S.C. 634, 640, 644, 645(10))

"Uniformed services."

(1) This term means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

(2) This definition applies to a uniformed service of the United States.

(20 U.S.C. 238(a)(2), 635(a) (1)(A), (2)(A); 37 U.S.C. 101)

Subpart B—What Are the Specific Eligibility Requirements for Assistance Under the School Construction Program?

Eligibility Under Section 5 of the Act

§ 221.10 What are the requirements for eligibility under section 5 of the Act?

(a) An LEA is eligible to receive Federal financial assistance under section 5 of the Act if the Secretary determines that, during an increase period—that is, a period of four consecutive school years—the LEA has experienced or will have experienced a substantial increase in the number of federally connected children.

(b) In calculating the increase in federally connected children the LEA shall meet the requirements of §§ 221.11 through 221.13.

(20 U.S.C. 635, 645(16))

§ 221.11 What children may be counted as federally connected?

An LEA may count as federally connected those children whom the LEA can identify in one or both of the two categories described in paragraphs (a) and (b) of this section. The statutory reference for each category appears in parentheses after the title of the category.

(a) *Category 1* (section 5(a)(1)(A) of the Act). A child is in category 1 if the child—

(1)(i) Resides on Federal property; and

(ii) Has a parent on active duty in the uniformed services; or

(2) Resides on Indian lands.

(b) *Category 2* (section 5(a)(1)(B) of the Act). A child is in category 2 if the child—

(1) Resides on Federal property; and

(2) Resides with a parent employed on Federal property situated in whole or in part in the same State as the school district of the LEA.

(c) In counting federally connected children for its eligiblity, an LEA may include—

(1) Children whose membership results from permanent Federal activities (eligibility under section 5 of the Act); and

(2) Children whose membership results from temporary Federal activities (eligibility under section 9 of the Act).

(Note.—Although an LEA in establishing its eligibility for assistance under section 5 of the Act may count children who qualify under section 9 of the Act, the Secretary does not include for payment under section 5 those children who qualify under section 9. See § 221.60(c)(1).)

(20 U.S.C. 238(a), 635(a))

§ 221.12 How does an LEA measure an increase?

(a) An LEA that claims an increase in federally connected children must show that the increase has occurred during an increase period.

(b) An increase in federally connected children is the difference between—

(1) The estimated number of federally connected children in the LEA's membership at the close of the increase period; and

(2) The estimated number of federally connected children in the LEA's average daily membership during the base year; that is, during the school year immediately preceding the first year of the increase period.

Example. If the increase period covers the four consecutive school years of 1980–81, 1981–82, 1982–83, and 1983–84, the base year would be 1979–80.

(20 U.S.C. 634, 635)

§ 221.13 What is the required minimum increase in the number or percentage of an LEA's federally connected children?

To be eligible for assistance under section 5 of the Act, an LEA must have at the close of an increase period, an estimated increase of—

(a) At least 20 federally connected children, constituting at least 6 percent of the LEA's total average daily membership during the base year; or

(b) At least 1,500 federally connected children, if the estimated increase constitutes less than the 6 percent required in paragraph (a) of this section.

(20 U.S.C. 635 (a), (b), (c))

§ 221.14 Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number of federally connected children?

(a) In applying for assistance under this part, an LEA may request a waiver or reduction of the requirement in § 221.13(a) that, at the end of the increase period, the LEA have an increase of at least 20 federally connected children.

(b) The Secretary considers the request for a waiver or reduction if the LEA meets the following conditions:

(1) The LEA has an isolated attendance area that is affected by Federal activity.

(2) The estimated increase in the number of the LEA's federally connected children at the end of the increase period is at least 25 percent of the LEA's total average daily membership in the base year.

(3) At the end of the increase period, the LEA will have in its membership federally connected children residing in the isolated attendance area who lack minimum school facilities.

(c) The general provisions that apply to this waiver or reduction are in § 221.43.

(20 U.S.C. 635 (c), (e))

§ 221.15 Under what circumstances may an LEA request a waiver or reduction of the minimum percentage increase in the number of federally connected children?

(a) In applying for assistance under this part, an LEA may request a waiver or reduction of the requirement in § 221.13(a) that, at the end of the increase period, the LEA have an increase of at least 6 percent of its total average daily membership during the base year.

(b) The Secretary considers the request for a waiver or reduction if the LEA meets the following conditions:

(1) The LEA has an isolated attendance area that is affected by Federal activity.

(2) The estimated increase in federally connected membership in the isolated attendance area at the end of the increase period is at least 10 percent of the total average daily membership in the isolated attendance area during the base year.

(3) At the end of the increase period, the LEA will have in its membership federally connected children residing in the isolated attendance area who lack minimum school facilities.

(c) The general provisions that apply to this waiver or reduction are in § 221.43.

(20 U.S.C. 635)

Eligibility Under Section 9 of the Act

§ 221.20 What are the requirements for eligibility under section 9 of the Act?

An LEA is eligible to receive Federal financial assistance under section 9 of the Act if—

(a) During an increase period the LEA has experienced a substantial increase in the number of federally connected children; and

(b) The Secretary determines that some or all of these children are in the LEA's membership because of a temporary Federal activity.

(20 U.S.C. 639)

§ 221.21 What other requirements apply to eligibility under section 9?

The following provisions of this part also govern the eligibility of an LEA for Federal financial assistance under section 9 of the Act:

(a) Section 221.11: What children may be counted as federally connected?

(b) Section 221.12: How does an LEA measure an increase?

(c) Section 221.13: What is the required minimum increase in the number or percentage of an LEA's federally connected children?

(d) Section 221.14: Under what circumstances may an LEA request a waiver or reduction of the minimum increase in the number of federally connected children?

(e) Section 221.15: Under what circumstances may an LEA request a waiver or reduction of the minimum percentage increase in the number of federally connected children?

(20 U.S.C. 635, 639)

Eligibility Under Section 14(a) of the Act

§ 221.24 What are the requirements for eligibility under section 14(a) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(a) of the Act if it meets the following requirements:

(a) The LEA is providing, or will be providing on completion of the project, free public education to children in its membership who reside on Indian lands.

(b) The LEA is not eligible, under either section 5 or section 9 of the Act, for enough Federal financial assistance to provide minimum school facilities.

(c) Any one of the following three conditions exists:

(1) At least 15 of the LEA's children, constituting at least 33⅓ percent of the LEA's total membership, reside on Indian lands.

(2) The land area of Indian lands constitutes at least one-third of the total land area of the LEA's school district.

(3) The LEA is providing, or will be providing on completion of the project, free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(d) The immunity of Indian lands to taxation creates a substantial and continuing impairment of the LEA's ability to finance needed school facilities.

(e) The LEA is making a reasonable tax effort and is diligently making use of State and other available financial assistance to provide the needed facilities.

(f) Despite full use of the facilities available to it, the LEA lacks the resources to provide minimum school facilities for at least 5 percent of the estimated number of children who will be in the LEA's membership at the end of the second year following the school year for which the applicant seeks assistance.

(20 U.S.C. 644(a))

§ 221.25 What requirements for eligibility under section 14(a) are subject to waiver or exemption?

(a) *Waiver.* The Secretary considers a request for a waiver of the 33⅓ percent requirement in § 221.24(c)(1) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area that includes children who reside on Indian lands.

(2) The LEA is providing, or will be providing on completion of the project, free public education in this isolated attendance area to at least 15 children residing on Indian lands and constituting at least 20 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 80 percent of the total land area of the LEA's school district.

(b) *General provisions.* The general provisions that apply to this waiver are in § 221.43.

(c) *Exemption.* The LEA does not have to meet the condition described in § 221.24(d) if the LEA is providing free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(20 U.S.C. 644(a))

Eligibility Under Section 14(b) of the Act

§ 221.28 What are the requirements for eligibility under section 14(b) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(b) of the Act if it meets the following requirements:

(a) The requirements of § 221.24 (a), (b), and (d).

(b) Any one of the following three conditions exists:

(1) At least 15 of the LEA's children, constituting at least 10 percent of the LEA's total membership, reside on Indian lands.

(2) The land area of Indian lands constitutes at least 10 percent of the total land area of the LEA's school district.

(3) The LEA is providing, or will be providing on completion of the project, free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(20 U.S.C. 644(b))

§ 221.29 What requirements for eligibility under section 14(b) are subject to waiver or exemption?

(a) *Waiver.* The Secretary considers a request for a waiver of the 10 percent requirement in § 221.28(b)(1) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area that includes children who reside on Indian lands.

(2) The LEA is providing, or will be providing on completion of the project, free public education in this isolated attendance area to at least 15 children residing on Indian lands and constituting at least 5 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 20 percent of the total land area of the LEA's school district.

(b) *General provisions.* The general provisions that apply to this waiver are in § 221.43.

(c) *Exemption.* The LEA does not have to meet the condition described in § 221.24(d) if the LEA is providing free public education for at least 100 children residing on Indian lands outside the boundaries of the LEA's school district.

(20 U.S.C. 644(b))

Eligibility Under Section 14(c) of the Act

§ 221.32 What are the requirements for eligibility under section 14(c) of the Act?

An LEA is eligible to receive Federal financial assistance under section 14(c) of the Act if it meets the following requirements:

(a) The requirements of § 221.24 (b), (e), and (f).

(b) The land area of Federal property constitutes at least 33⅓ percent of the total land area of the LEA's school district.

(c) At least 20 of the LEA's children, constituting at least 33⅓ percent of the LEA's total membership, lack or will lack minimum school facilities.

(d) The immunity of Federal property to taxation creates a substantial and continuing impairment of the LEA's ability to finance needed school facilities.

(20 U.S.C. 644(c))

§ 221.33 What requirement for eligibility under section 14(c) is subject to waiver?

(a) The Secretary considers a request for a waiver of the 33⅓ percent requirement in § 221.32(c) if an LEA meets the following three requirements:

(1) The LEA has an isolated attendance area with children who lack minimum school facilities.

(2) The LEA is providing, or will provide free public education in this isolated attendance area to at least 20 children lacking minimum school facilities and constituting at least 20 percent of the LEA's total membership.

(3) The land area of Federal property constitutes at least 80 percent of the total land area of the LEA's school district.

(b) The general provisions that apply to this waiver are in § 221.43.

(20 U.S.C. 644(c))

Eligibility Under Section 8(1) of the Act

§ 221.36 What are the requirements for eligibility under section 8(1) of the Act?

(a) If the Secretary makes available supplemental Federal financial assistance under section 8(1) of the Act, an LEA is eligible to receive this assistance if the LEA—

(1) Is eligible to receive a grant under section 5 of the Act; and

(2) Has not received the grant because of its inability to finance the non-Federal share of the proposed project.

(b) In determining the LEA's eligibility under section 8(1), the Secretary requires that the LEA meet at least the following conditions:

(1) The LEA's eligibility under sections has not been achieved by reason of a waiver or reduction under § 221.14 or 221.15.

(2) The LEA demonstrates to the satisfaction of the Secretary that it is fully using or will fully use all other facilities available to the LEA.

(3)(i) The estimated number of the LEA's federally connected children who may be counted for payment is at least 12 percent of the LEA's average daily membership in the base year.

(ii) However—

(A) If the LEA has used one year of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 9 percent;

(B) If the LEA has used two years of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 6 percent; and

(C) If the LEA has used three years of the increase period as a basis for payment under a previous application under the Act, the percentage requirement under paragraph (b)(3)(i) of this section is at least 3 percent.

Example. An LEA submits a preapplication for Federal financial assistance under section 8(1) of the Act to supplement a grant under section 5 of the Act, based on an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84. During the base year (1979–80), the LEA's average daily membership was 3,750. Under paragraph (b)(3)(i) of this section, the estimated number of the LEA's federally connected children who may be counted for payment would have to be at least 450 children; that is, at least 12 percent of the LEA's average daily membership in the base year.

However, in this example, the same LEA has previously submitted another eligible preapplication under section 5 of the Act for an increase period consisting of the following school years: 1978–79, 1979–80, 1980–81 and 1980–82. This means that the LEA is using in its current preapplication two of the same school years (1980–81 and 1981–82) used as a basis for payment under its previous preapplication. Thus, under paragraph (b)(3)(ii)(B) of this section, the estimated number of the LEA's federally connected children who may be counted for payment under the current reapplication must be at least 225; that is, at least 6 percent of the LEA's average daily membership in the base year.

(20 U.S.C. 635, 638)

Eligibility Under Section 8(2) of the Act

§ 221.38 What are the requirements for eligibility under section 8(2) of the Act?

If the Secretary makes available supplemental Federal financial assistance under section 8(2) of the Act, an LEA is eligible to receive this assistance if—

(a) The LEA has received a grant under section 5, 8, 9, or 14 of the Act;

(b) The LEA is unable to complete the project because of flood, fire, or similar emergency affecting—

(1) The work on the project; or

(2) The LEA's ability to finance the non-Federal share of the project; and

(c) The LEA demonstrates to the satisfaction of the Secretary that it is fully using or will fully use all other facilities available to the LEA.

(20 U.S.C. 635, 638)

Subpart C—How Does an LEA Apply for Assistance Under the School Construction Program?

§ 221.40 What are the general requirements for submitting a preapplication and an application under the School Construction Program?

(a) To be considered for assistance under the School Construction Program, except in the case of an application under section 8(2) of the Act, an LEA must submit to the Secretary—

(1) A preapplication; and

(2) If invited by the Secretary—on the basis of the likelihood of funding—an application that meets the requirements of section 6(b)(1) of the Act.

(b)(1) The Secretary publishes in the Federal Register a notice that establishes a closing date for the receipt of preapplications.

(2) If the Secretary invites an LEA to submit an application under this part, the Secretary establishes in the letter of invitation a closing date for the receipt of the application.

(c)(1) The LEA shall submit its preapplication and its application to the Secretary through its State educational agency (SEA).

(2) The LEA shall submit its preapplication or application to its SEA at least 15 days before the deadline date for submitting the preapplication or application to the Secretary.

(d) The requirements for submitting an application under section 8(2) of the Act are in § 221.48

(20 U.S.C. 636)

§ 221.41 During what year must an LEA file its preapplication?

(a) In order to be considered for assistance under section 5, 9, or 8(1) of the Act, an LEA must submit its preapplication during the third or fourth year of an increase period; that is, during the third or fourth year following the base year selected by the LEA.

Example. An LEA submits a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84. The base year for this application is 1979–80. To be considered for assistance, the LEA must submit its preapplication during the 1982–83 school year (the third year of the increase period) or during the 1983–84 school year (the fourth year of the increase period).

(b) During the same school year an LEA may submit preapplications—under section 5, 9, or 8(1) of the Act—related to two different base years.

Example. During 1982–83, the third year of the increase period, an LEA may submit a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1980–81, 1981–82, 1982–83, 1983–84, with 1979–80 as the base year.

During the same year, 1982–83, the fourth year of another increase period, the LEA may submit a preapplication for Federal financial assistance under section 5, 9, or 8(1) of the Act for an increase period consisting of the following school years: 1979–80, 1980–81, 1981–82, 1982–83, with 1978–79 as the base year.

Thus, in 1982–83, the LEA may submit a preapplication related to base year 1979–80 and a preapplication related to base year 1978–79.

(c) In order to be considered for assistance under section 14 (a), (b) or (c) of the Act, an LEA must submit its preapplication during the first or second school year before the school year for which it seeks assistance.

Example. An LEA estimates that it will qualify for assistance under section 14(a), 14(b), or 14(c) of the Act during the 1985–86 school year. The LEA must apply for assistance during the 1983–84 school year or the 1984–85 school year.

(20) U.S.C. 635, 638, 639, 644, 645(15))

§ 221.42 What information does an LEA need to support a preapplication and an application under the School Construction Program?

(a) During the year in which it submits its preapplication, an LEA shall—

(1) Determine the number of children in its membership; and

(2) Identify the number of children in the membership who are federally connected.

(b)(1) The determination or identification made by the LEA under paragraph (a) of this section shall be as of the same date throughout the LEA's school district.

(2) This date shall be during the regular school year at a time before the closing date for the transmittal of applications.

(c) In identifying federally connected children the LEA may collect whatever information the LEA needs to—

(1) Establish the LEA's eligibility under the School Construction Program; and

(2) If necessary, substantiate factors that might affect the amount of payment to the LEA under the program.

(d) For each federally connected child identified by the LEA, the information referred to in paragraph (c) of this section must include the following:

(1) Name.

(2) Date of birth.

(3) School in which enrolled.

(4) Grade in school.

(5)(i) The name and address of the Federal property on which the child

resides, including Indian land if applicable; and

(ii) In the case of low-rent housing under the United States Housing Act of 1937, the identification number assigned to that housing by the U.S. Department of Housing and Urban Development.

(6) If the child is federally connected because the child has a parent on active duty in a uniformed service—

(i) The parent's name;

(ii) The parent's rank;

(iii) The name of the uniformed service; and

(iv) An attestation of the parent's active duty status.

(7) If the child is federally connected because the child resides with a parent employed on Federal property situated in whole or in part in the same State as the school district of the LEA—

(i) The parent's name; and

(ii)(A) The name and address of the Federal property where the parent is employed; or

(B) If the parent is a civilian employed on a Federal vessel, the name, hull number, and home port of the vessel and the name of the controlling agency.

(e) The LEA may obtain the information in paragraph (d)(5) of this section from any of the following:

(1) A parent of the child.

(2) An appropriate official of the Federal installation on which the child resides or of the Federal housing in which the child resides.

(3) If applicable, an appropriate tribal official.

(f) The LEA may obtain the information in paragraph (d)(6) of this section from either or both of the following:

(1) A parent of the child.

(2) An appropriate official of the uniformed service in which the parent is on active duty.

(g) The LEA may obtain the information in paragraph (d)(7) of this section from either or both of the following:

(1) A parent of the child.

(2) The employer of the parent employed on Federal property.

(h) The LEA shall obtain from the source or sources of information referred to in paragraphs (e), (f), and (g) of this section—

(1) The sources's signature; and

(2) The date of signing.

(i) In identifying federally connected children the LEA may meet the requirements of paragraphs (d) through (h) of this section by means of the parent-pupil survey used by the LEA that same school year to identify federally connected children under 34 CFR Part 222 (Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education).

(j) The Secretary may require the LEA to update any of the information referred to in this section at the time the LEA files its application.

(k) For purposes of this section, "parent" means—

(1) Mother;

(2) Father;

(3) Legal guardian; or

(4) Another person standing in place of the parent.

(20 U.S.C. 238, 635)

§ 221.43 What general provision apply to a request for a waiver or reduction of certain requirements?

(a) If an LEA seeks a waiver or reduction of a requirement of these regulations for which the Secretary may grant a waiver or reduction, the LEA shall submit its request as a separate document together with its preapplication.

(b) The LEA shall—

(1) State in the request the specific requirement(s) for which the LEA seeks the waiver or reduction; and

(2) Include in the request information the Secretary requires to determine whether the waiver or reduction is warranted.

(c) The Secretary determines—

(1) The extent of any waiver or reduction; and

(2) The portion of the LEA's jurisdiction for which the LEA receives assistance as a result of the waiver or reduction.

(20 U.S.C. 635(e), 639, 644 (a), (b), (c))

§ 221.44 What information must an SEA certify?

(a) *Preapplication.* In transmitting a preapplication from an LEA to the Secretary, an SEA must certify that, to the best of the SEA's knowledge, the information in the preapplication is accurate and complete.

(b) *Application.* In transmitting an application from an LEA to the Secretary, an SEA must certify that the proposed project is not inconsistent with overall State plans for the construction of school facilities.

(20 U.S.C. 636)

§ 221.45 What procedures does an SEA follow in certifying a preapplication or an application?

(a) The deadline dates for the receipt of SEA certifications are the same dates the Secretary establishes under § 221.40(b) for the receipt of preapplications and applications from LEAs.

(b) If the SEA certifies a preapplication or application, the appropriate SEA official shall—

(1) Sign a statement that certifies the document; and

(2) Submit the document and the statement by the deadline date for certification. The procedures in EDGAR, 34 CFR 75.102 (Deadline date for applications), apply to this submission.

(c)(1) If an SEA certifies a preapplication and an application on or before the appropriate deadline dates for SEA certification, the Secretary may select that project for a grant.

(2) If an SEA does not certify a preapplication or an application on or before the appropriate deadline dates for SEA certification, the Secretary does not select that project for a grant.

(20 U.S.C. 3474)

§ 221.46 How may an SEA comment on a preapplication or an application?

(a) An SEA that receives a preapplication or an application under this part may review and comment on the preapplication or application in addition to making the certification under § 221.44.

(b) In commenting on the LEA's preapplication or application, the SEA shall follow the provisions in EDGAR for State Comment Procedures (34 CFR 75.155 through 75.160).

(c)(1) The Secretary encourages the SEA to submit its comments, if any, together with the certified preapplication or application when the SEA forwards that document to the Secretary.

(2) If the SEA submits its comments to the Secretary separately from the certified preapplication or application, the SEA shall meet the requirements of 34 CFR 75.158 (Deadlines for State comments).

(20 U.S.C. 636, 645)

§ 221.47 What types of comments does the Secretary consider?

In evaluating an LEA's preapplication or application under this part, the Secretary considers—in addition to the provisions of 34 CFR 75.159(a)—those comments of an SEA that relate to—

(a) Any criteria or other matters that could affect the Secretary's approval of the preapplication or application;

(b) Any State laws or practices related to the construction of school facilities in the State; and

(c) Whether the proposed project is consistent with overall State plans for the construction of school facilities.

(20 U.S.C. 636)

§ 221.44 What are the requirements for submitting an application under section 8(2) of the Act?

(a) In the case of an application for assistance under section 8(2) of the Act—

(1) The Secretary considers the LEA's certified preapplication and application for the original project funded under section 5, 9, 14, or 8(a) as meeting the requirement for submission of a preapplication; and

(2) The LEA shall submit to the Secretary an application only.

(b) The LEA may submit its application at any time.

(c) The LEA shall submit its application to the Secretary through its SEA.

(d)(1) In transmitting the application to the Secretary, the SEA shall follow the appropriate provisions of § 221.45.

(2) The SEA may also comment on the application according to the provisions of § 221.46.

(20 U.S.C. 636, 638)

§ 221.49 What general requirements apply to changes in an LEA's legal organization or jurisdiction?

(a) An LEA shall notify the Secretary of any changes in its legal organization or jurisdiction that—

(1)(i) Occur during the application process; or

(ii) Have occurred since the LEA's filing of its most recent previous application, if any, under the Act; and

(2) Would affect the LEA's rights or benefits under the Act.

(b)(1) If an LEA succeeds to any part of the territory of one or more other LEAs that have filed applications under the Act, the successor LEA may assume any rights and benefits that those applications have established with respect to the transferred territory if the successor LEA—

(i) Demonstrates to the Secretary that its succession to the territory and any affected property meets all requirements of State Law; and

(ii) Agrees to be bound by all assurances and obligations under this part undertaken by the LEA(s) that filed the application(s).

(2) The successor LEA may not receive under those applications rights and benefits that are greater than the total rights and benefits established by the application(s).

(20 U.S.C. 636)

Subpart D—How Does the Secretary Determine Priorities for Funding Among Eligible Applications?

§ 221.50 What priorities does the Secretary apply?

If the amount of money estimated to be necessary to fund all eligible applications and requests is more than the amount the Congress appropriates for the School Construction Program for a fiscal year, the Secretary applies the following priorities for funding applications:

(a) *First priority.* (1) The first priority is full funding of all eligible applications and requests under sections 9, 10, and 14 (a) and (b) of the Act.

(2) If the Secretary is unable to provide full funding of all eligible applications and requests under sections 9, 10, and 14 (a) and (b), the Secretary—

(i) Group preapplications under each of these three sections of the Act;

(ii) Except as specified in paragraph (a)(3) of this section, allocates to each group of preapplications funds in the ratio of (1) the total amount requested by all applicants in that group to (2) the total amount requested by all applicants in all groups.

(3) If the Secretary is unable to provide full funding of all eligible projects under sections 14 (a) and (b), the Secretary provides total funds for those projects at least equal to funds provided for projects under section 10.

(4)(i) In the case of preapplications under sections 9 and 14 (a) and (b), the Secretary assigns priority within each group in accordance with § 221.51.

(ii) However, if an applicant submitting a preapplication under section 9 does not have in its membership at least 20 unhoused children, the Secretary assigns a priority index of zero (0) to the preapplication.

(5) In the case of requests under section 10, the Secretary computes priority in accordance with § 221.94.

(b) *Second priority.* (1) The second priority is—

(i) Full funding of all eligible applications under sections 5 and 14(c) of the Act; and

(ii) Full funding of all eligible applications under section 8 of the Act if, for that year, the Secretary makes available supplemental assistance under section 8.

(2) If the Secretary is unable to provide full funding of all eligible applications under sections 5 and 14(c) and full funding of all eligible applications under section 8—if the Secretary makes available supplemental assistance under section 8—the Secretary applies the procedures in paragraphs (b)(3) and (b)(4) of this section.

(3) In the case of preapplications under sections 5, 8(1), and 14(c), the Secretary—

(i) Considers all of the preapplications as one group;

(ii)(A) Assigns priority in accordance with § 221.51.

(B) However, if an LEA submitting a preapplication under section 5, 8(1), or 14(c) does not have in its membership at least 20 unhoused children, the Secretary assigns a priority index of zero (0) to the preapplication; and

(iii) After fully funding all indexed applications—including those assigned an index of zero—gives consideration to making payments based on any increases in the number of children residing on property that is federally assisted low-rent housing under the United States Housing Act of 1937.

(4) In the case of applications under section 8(2), the Secretary—

(i) Assigns to each application the same priority index as that assigned to the original preapplication for that project;

(ii) Ranks each application in descending order of priority starting from the highest index, together with the group of preapplications under sections 5, 8(1), and 14(c); and

(iii) Holds until the next quarter of a fiscal year in which funds become available, all eligible applications the Secretary is unable to fund.

(c) The Secretary does not award any funds to applications in the second priority unless the Secretary is able to provide full funding of all eligible applications in the first priority.

(d) The Secretary reserves the right to fund eligible applications under section 16 of the Act (School Construction Assistance in Cases of Certain Disasters) regardless of the priority assigned by the Secretary under this section to any other preapplication.

(20 U.S.C. 632, 633, 636(b)(2)(C), 644 (e), (h))

§ 221.51 How does the Secretary compute priority indices and rank preapplications?

(a)(1) If the Secretary is unable to provide full funding of all applications in each group of applications under section 5, 8(1), 9, or 14 of the Act, the Secretary—

(i) Computes or assigns a priority index for each preapplication according to the provisions of §§ 221.50 and 221.51;

(ii) Ranks each preapplication in descending order of priority starting from the highest index; and

(iii) Funds applications in accordance with § 221.64.

(2) If the Secretary is unable to provide full funding of all requests under section 10 of the Act, the Secretary computes or assigns a priority index for each request according to the applicable provisions of § 221.50 and the provisions of § 221.94.

(b)(1)(i) In computing or assigning a priority index, the Secretary uses or refers to data included in the preapplication.

(ii) Before actually funding a project the Secretary may refer to the most recently available data and other information to confirm an applicant's priority index and ranking.

(2) The membership figures the Secretary uses in computing the priority index are the estimated figures as of the end of the increase period or, in the case of a preapplication under section 14 (a) or (b), as of the end of the school year for which the LEA seeks assistance.

(3)(i) The figures the Secretary uses are those for the LEA as a whole.

(ii) However, if the preapplication is for an isolated attendance area, the Secretary uses the figures for that area only.

(c) The steps the Secretary uses in computing the priority index are as follows:

(1) *Step 1.* (i) The Secretary divides—

(A) The number of children countable for payment; by

(B) The total membership.

(ii) As used in this section and in § 221.52, the term "children countable for payment" includes children residing on property that is federally assisted low-rent housing under the United States Housing Act of 1937, even though those children are not eligible for payment unless the Secretary is able to provide full funding of all eligible applications in the second priority (§ 221.50(b)).

(2) *Step 2.* (i) The Secretary divides—

(A) The number of all unhoused children; by

(B) The total membership.

(ii) However, the Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. (See Example 2)

(3) *Step 3.* The Secretary adds—

(i) The result of Step 1; to

(ii) The result of Step 2.

(4) *Step 4.* The Secretary multiplies the result of Step 3 by 100.

Example 1. An LEA has a total membership of 1,000 pupils. Of that number, 200 are children countable for payment. Within the LEA 125 children are unhoused. This includes those who are federally connected and those who are not federally connected. In following the steps described in paragraph (c) of this section, the Secretary computes the priority index as follows:

Step 1. 200 divided by 1,000 equals 0.2.

Step 2. 125 divided by 1,000 equals 0.125.

Step 3. 0.2 plus 0.125 equals 0.325.

Step 4. 0.325 multiplied by 100 equals 32.5

Thus, the preapplication has an index of 32.5. The Secretary compares that index with the indices of all other preapplications in the same group and ranks the preapplications in descending order beginning with the preapplication with the highest index.

Example 2. An LEA has a total membership of 2,000 pupils. Of that number, 400 are children countable for payment. Within the LEA 500 children are unhoused. This includes those who are federally connected and those who are not federally connected. In following the steps described in paragraph (c) of this section, the Secretary computes the priority index as follows:

Step 1. 400 divided by 2,000 equals 0.2.

Step 2. 500 divided by 2,000 equals 0.25. However, in order to ensure that a priority index is not distorted by large numbers of unhoused children who are not federally connected, the Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. Therefore, the result of Step 2 is limited to 0.2.

Step 3. 0.2 plus 0.2 equals 0.4.

Step 4. 0.4 multiplied by 100 equals 40.0.

Thus, this preapplication has an index of 40.0.

(20 U.S.C. 633, 635, 638, 639, 644)

§ 221.52 What procedures does the Secretary follow if two or more preapplications in the same group have identical indices?

Except for requests eligible under section 10 of the Act, if two or more preapplications in a group have identical indices—including preapplications with an index of zero—the Secretary ranks these preapplications in descending order of sub-priority indices computed according to the following steps:

(a) *Step 1.* The Secretary divides—

(1) The number of children countable for payment; by

(2) The total membership.

(b) *Step 2.* The Secretary multiplies the result of Step 1 by 100.

Example. Two LEAs that have filed preapplications under section 9 of the Act have identical indices of 35.5, computed according to the steps in § 221.51(c). In order to determine which preapplication ranks higher, the Secretary applies the steps in this § 221.52.

One of the LEAs has a total membership of 1,000 pupils. Of that number 200 are children countable for payment. Following the steps described in this section, the Secretary computes the sub-priority index for this preapplication as follows:

Step 1. 200 divided by 1,000 equals 0.2.

Step 2. 0.2 multiplied by 100 equals 20.0.

Thus, this preapplication has a sub-priority index of 20.0.

The other LEA has a total membership of 1,300 pupils. Of that number, 233 are children countable for payment. Following the steps described in this section, the Secretary computes the sub-priority index for this preapplication as follows:

Step 1. 233 divided by 1,300 equals 0.179.

Step 2. 0.179 multiplied by 100 equals 17.9.

Thus, this preapplication has a sub-priority index of 17.9.

The Secretary then compares the two sub-priority indices of 20.0 and 17.9 and gives a higher rank to the preapplication from the LEA with a total membership of 1,000, including 200 children countable for payment; that is, the preapplication with the sub-priority index of 20.0.

(20 U.S.C. 633)

§ 221.53 What effect may a delay in the starting date of construction have on an applicant's priority ranking?

(a) If the Secretary approves an application for funding during a particular funding cycle, the applicant shall begin construction of the project within 120 calendar days of notification of the Secretary's approval.

(b) If the applicant does not begin construction within 120 days, the Secretary may—

(1) Extend the time if the applicant shows good cause to the Secretary; or

(2) Drop the application from that funding period and consider it in the next funding period—

(i) At the same priority index; or

(ii) At a priority index computed on the basis of new data.

(20 U.S.C. 633, 636(b)(1)(D))

Subpart E—How Much Assistance Is Available Under the Act?

§ 221.60 What assistance may the Secretary make available under section 5 of the Act?

(a) If an LEA is eligible for a grant under section 5 of the Act, as described in § 221.10, the Secretary may grant an amount in accordance with the provisions of section 5.

(b) The Secretary does not grant an amount that exceeds the cost of constructing, in the LEA's school district, minimum school facilities for the estimated membership in the district who—despite the full use of facilities available to the LEA— will lack minimum school facilities at the close of the second year following the increase period.

(c) In computing the amount of the grant, the Secretary does not include—

(1) Children whose membership in the LEA's school district the Secretary determines to be the result of a temporary Federal activity and who, therefore, are countable for payment under section 9 of the Act; and

(2) Children who receive or will receive services in facilities provided under section 10 of the Act.

(d) If the Secretary approves a request for a waiver or reduction under §§ 221.14 or 221.15 because an LEA has within it an isolated attendance area or areas, the Secretary limits the LEA's grant to an amount based on the lesser of—

(1) The increase in federally connected children eligible for payment in the LEA as a whole at the end of the increase period; and

(2) The increase in federally connected children eligible for payment in the same increase period.

(20 U.S.C. 634, 635, 639, 640)

§ 221.61 What assistance may the Secretary make available under section 9 of the Act?

(a) If an LEA is eligible for assistance under section 9 of the Act, as described in §§ 221.20 and 221.21, the Secretary may—

(1) Provide temporary facilities needed by the federally connected children who lack minimum school facilities and whose membership in the LEA's school district the Secretary determines is the result of a temporary Federal activity; or

(2) If the LEA assures the Secretary that it will provide at least minimum school facilities for these children, grant to the LEA an amount equal to the amount necessary to make temporary facilities available.

(b) In no case does the Secretary grant an amount that exceeds the cost of constructing, in the LEA's school district, minimum school facilities for these children.

(c) If the Secretary decides to transfer to the LEA facilities to carry out section 9 of the Act or facilities that have been used to carry out section 9, the Secretary establishes the terms and conditions of the transfer.

(20 U.S.C. 635, 639)

§ 221.62 What assistance may the Secretary make available under section 14 of the Act?

(a)(1) If an LEA is eligible for a grant under section 14(a) or (14(c) of the Act, as described in §§ 221.24 and 221.32 respectively, the Secretary may grant an amount that does not exceed the cost of constructing minimum school facilities for the estimated number of children who—

(i) Will be in the LEA's membership two years after the end of the school year for which the applicant seeks assistance; and

(ii) Despite the full use of facilities available to the LEA, will lack minimun school facilities unless a grant is made.

(2) The Secretary counts for payment under paragraph (a)(1) of this section the estimated number of all unhoused children who will be in the LEA's membership, not only those children who reside on Federal property, including Indian lands.

(3) The Secretary does not grant an amount that exceeds the difference between—

(i) The cost of constructing minimum school facilities for the number of unhoused children; and

(ii) The amount the LEA has available or will have available for this purpose from other sources, including other Federal funds.

(b) If an LEA is eligible for a grant under section 14(b) of the Act, as described in § 221.28, the Secretary applies the provisions of paragraph (a) of this section, except that the only children the Secretary counts for payment are those who reside on Indian lands.

(c)(1) If an LEA is eligible for a grant under section 14 (a) or (b) of the Act as described in §§ 221.24 and 221.28 respectively, the Secretary may grant the LEA funds sufficient to—

(i) Construction consolidated school facilities in cases of consolidation of small school districts; or

(ii) Replace small, isolated, inadequate buildings.

(2) The Secretary may grant funds for a purpose stated in paragraph (c)(1) of this section even though the LEA may have enough classroom space to house all of the children.

(20 U.S.C. 644)

§ 221.63 What assistance may the Secretary make available under section 8 of the Act?

(a)(1) If an LEA is eligible for a grant under section 8(1) of the Act because it is unable to finance the non-Federal share of a project under section 5 of the Act, as described in § 221.36, the Secretary may grant an amount that does not exceed the difference between—

(i) The cost of constructing, in the LEA's school district, minimum school facilities for the estimated membership in the district who—despite the full use of facilities available to the LEA—will lack minimum school facilities at the close of the second year following the increase period; and

(ii)(A) The amount the Secretary has approved as a grant for this purpose under section 5 of the Act; and

(B) The amount the LEA has available or will have available for this purpose from any other sources.

(2) In no case does the Secretary provide under paragraph (a) of this section an additional amount greater than the amount the Secretary has approved as a grant for this project under section 5 of the Act.

(3) In considering a request for assistance under paragraph (a) of this section, the Secretary uses the data included in the preapplication approved for this project under section 5 of the Act.

(b) If an LEA is eligible for a grant under section 8(2) of the Act because it has been prevented from completing a project by a flood, fire, or similar emergency, as described in § 221.38, the Secretary may grant an amount that does not exceed the difference between—

(1) The additional expenses caused by the emergency; and

(2) The amount the LEA has available or will have available for this purpose from other sources, including insurance payments.

(20 U.S.C. 634, 638, 639, 644)

§ 221.64 In what order does the Secretary fund applications?

(a)(1) In the case of a group of applications under sections 5, 8(l), and 14(c) of the Act (see § 221.50(b)), if the Secretary is unable to provide full funding of all applications in the group, the Secretary funds applications in the group in descending order of priority index until the Secretary is unable to provide full funding of the next ranked application in the group.

(2) However, if the next ranked application for which the Secretary is unable to provide full funding is an application under section 14(c) of the Act, the Secretary may provide partial funding of the application.

(b) In the case of a group of applications under section 9 of the Act or a group of applications under section 14 (a) and (b) of the Act (see § 221.50(a)(2)), if the Secretary is unable to provide full funding of all applications in the group, the Secretary partially or fully funds applications in the group in descending order of priority index until the Secretary is unable to provide what the Secretary regards as adequate funding of the next ranked application in the group.

(c) In the case of a group of requests under section 10 of the Act, the Secretary applies the procedures under § 221.94.

(d) If the Secretary partially funds an application in a given year, the Secretary, to the extent possible the next time funds are available, completes the funding of that application before funding any new applications within the same group.

(20 U.S.C. 632, 633, 636(b)(2)(c), 644 (e), (h))

§ 221.65 When may the Secretary make payments under the Act?

Except for projects under section 10 of the Act, after the Secretary has approved a grant award under the Act, the Secretary—

(a) Makes an initial payment of 10 percent of the approved estimated Federal share of the cost of the project; and

(b) May pay the remainder of the award in portions at various stages of the project.

(20 U.S.C. 637(a))

Subpart F—What Conditions Must Be Met by a Grantee?

§ 221.70 What activities by a grantee require prior approval by the Secretary?

(a) A grantee may issue invitations for bids or enter into contracts for construction of its project only after the Secretary has—

(1)(i) Approved all plans and pertinent specifications; and

(ii) Determined that these plans and specifications are educationally adequate for the purpose for which they are intended; and

(2) Approved all documents related to the bids or contracts.

(b) A grantee may issue invitations for bids or requests for proposals relating to equipment for the project only after the Secretary has approved a list of the equipment to be procured and a budget for this equipment.

(20 U.S.C. 636, 637, 642, 645(9))

§ 221.71 What provisions of the Indian Self-Determination and Education Assistance Act apply to the School Construction Program?

(a) Assistance under sections 14(a) and 14(b) of the Act is subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93–638). That section requires that, to the greatest extent feasible, the recipient of any grant or contract awarded for the benefit of Indians—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant or contract; and

(2) Give to Indian organizations and to Indian-owned economic enterprises—as defined in section 3 of the Indian Financing Act of 1974—preference in the award of contracts and subcontracts at any level of the administration of the construction project.

(25 U.S.C. 450e(b), 1452(e))

(b) For purposes of this section, an "Indian" is a member of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(25 U.S.C. 450 (a), (b))

Subpart G—What Requirements Govern Administrative Hearings Under the School Construction Program?

§ 221.80 Under what circumstances may an LEA request an administrative hearing?

(a) An LEA may request an administrative hearing if—

(1) The Secretary notifies the LEA of the Secretary's intent to disapprove the LEA's preapplication or application in whole or in part; or

(2) After a grant has been made, the Secretary notifies the LEA of the Secretary's intent to withhold payments under the provisions of section 11(a) of the Act.

(b) In the case of an intent to withhold payments under section 11(a) of the Act, the Secretary may set a stated place and time for a hearing even if the LEA has not requested a hearing. (See 34 CFR 218.2(c).)

(20 U.S.C. 636(c), 641(a))

§ 221.81 How does an LEA request a hearing?

(a) Notwithstanding the possibility of a shorter time period stated in 34 CFR 218.2(c), within 60 days of receiving notification of the Secretary's intent to disapprove its preapplication or application or to withhold payments, an LEA may submit to the Secretary a written request for a hearing.

(b) In its request the LEA shall clearly state the issues of fact and of law to be considered at the hearing.

(c) The LEA shall send a copy of its request to its SEA when the LEA submits its request to the Secretary.

(20 U.S.C. 636(c), 641(b))

§ 221.82 How does the Secretary treat a reqeust for a hearing?

(a) After receiving an LEA's written request for a hearing, the Secretary follows the procedures in paragraph (b) or (c) of this section.

(b)(1) The Secretary may appoint a hearing officer and assign the hearing to this hearing officer.

(2)(i) In this case, the provisions of 34 CFR Part 218 (Hearings in Connection with School Construction and Financial Assistance in Federally Impacted Areas) govern this hearing.

(ii) As used in 34 CFR Part 218, the term "application" includes a preapplication.

(c)(1) The Secretary may assign a withholding hearing to the Department's Education Appeal Board.

(2) In this case, the Education Appeal Board's procedures for a withholding hearing (34 CFR Part 78) govern this hearing.

(20 U.S.C. 636(c), 641, 1234)

Subpart H—What Special Provisions Govern Assistance Under Section 10 of the Act?

§ 221.90 Under what circumstances does the Secretary make arrangements for the provision of minimum school facilities under section 10 of the Act?

(a) The Secretary makes arrangements for constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing minimum school facilities for the types of children described in § 221.92 under any of the following circumstances:

(1) The State or any political subdivision of the State is prohibited by law from spending its tax revenues to provide for the free public education of these children.

(2) The Secretary determines, after consultation with the appropriate SEA, that no LEA is able to provide for the suitable free public education of these children as the term "suitable" is defined in § 221.91.

(3) The special circumstances described in § 221.92(b) (1) and (2).

(b) For purposes of this subpart, the terms "constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing" include repair, removal of architectural barriers, prevention of deterioration, upkeep, maintenance, upgrading for purposes of curriculum or to meet the standards of minimum school facilities, and, under circumstances described in § 221.93(a)(2)(ii), improvements to a site.

(c) To the maximum extent practicable, the facilities for which the Secretary makes arrangements under section 10 of the Act in any State are comparable to minimum school facilities provided for children in comparable communities in that State.

(20 U.S.C. 640)

§ 221.91 What criteria does the Secretary use in determining whether a free public education is "suitable"?

The Secretary considers a free public education to be "suitable" if—

(a) The primary language of instruction is English;

(b) The distance between a pupil's home and the school facility the pupil attends or would attend is within the maximum commuting distance established by the State; and

(c)(1) The programs of instruction offered or that can be offered meet standards for State accreditation or approval.

(2) If the State does not have standards for accreditation or approval, the Secretary applies standards established by an appropriate accreditation association.

(20 U.S.C. 640)

§ 221.92 For what types of children does the Secretary make arrangements for the provision of facilities under section 10?

(a) The Secretary makes arrangements for the provision of facilities under section 10 of the Act for the number of children—

(1) Who, the Secretary estimates in any fiscal year, will reside on Federal property at the end of the next fiscal year; and

(2) For whom minimum school facilities are unavailable because of the circumstances described in § 221.90(a) (1) or (2).

(b) The Secretary may make arrangements for the provision of facilities under section 10 of the Act for the following:

(1) Children who do not reside on Federal property, if—

(i) The children reside with a parent employed by the United States;

(ii) The minimum school facilities the Secretary provides are situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands; and

(iii) The Secretary, after consultation with the appropriate SEA, determines that—

(A) The construction or provision of the facilities is appropriate to carry out the purposes of the Act;

(B) No LEA is able to provide minimum school facilities for the suitable free public education of these children; and

(C) English is not the primary language of instruction in schools in the locality.

(2) Children of members of the Armed Forces—Army, Navy, Air Force, Marine Corps, Coast Guard—on active duty, if—

(i) The schools in which free public education is usually provided for these children are made unavailable to the children because of official action by State or local governmental authority; and

(ii) The Secretary, after consultation with the appropriate SEA, determines that no LEA is able to provide a suitable free public education for these children.

(c) *Ineligible children.* The Secretary does not make arrangements for the provision of facilities under section 10 for the following:

(1) Children who reside on Federal property formerly under the control of the Atomic Energy Commission and now under the control of the Department of Energy.

(2) Indian children attending federally operated Indian schools.

(20 U.S.C. 640)

§ 221.93 For what types of projects may the Secretary provide assistance under section 10?

(a) The types of projects for which the Secretary may provide assistance under section 10 of the Act during any given year include, but are not restricted to, one or more of the following:

(1)(i) Emergency repairs to existing facilities for which the Secretary is responsible under section 10 of the Act.

(ii) As used in paragraph (a)(1)(i) of this section, the term "emergency repairs" means those repairs necessary—

(A) For the safety of persons using the facilities;

(B) For the removal of architectural barriers to the handicapped; or

(C) For the prevention of further deterioration of the facilities.

(2)(i) Non-emergency upkeep and maintenance of existing facilities for which the Secretary is responsible under section 10 of the Act.

(ii) As used in paragraph (a)(2)(i) of this section, upkeep and maintenance may include site improvements.

(3) Upgrading of existing facilities for which the Secretary is responsible under section of the Act, if the purpose of the upgrading is to—

(i) Improve curriculum; or

(ii) Improve facilities to meet the standards of minimum school facilities.

(4) Provision of temporary facilities on Federal property pending—

(i) Emergency repairs; or

(ii) Construction of new minimum school facilities needed as a result of flood, fire, or other emergency.

(5) Construction of new minimum school facilities.

(b)(1) In the case of assistance for any type of project described in paragraphs (a) (1), (2), (3), and (4) of this section, the Secretary—

(i) Determines the extent to which assistance is needed and the urgency with which the assistance is needed; and

(ii) If necessary, notifies any other agency that might be affected by the determination.

(2) The Secretary makes these determinations, also, in the case of assistance for a project described in paragraph (a)(5) of this section if the need for the project results from a flood, fire, or other emergency.

(c) Except in cases of projects needed as a result of a flood, fire, or other emergency, if the Secretary in any given year decides to fund requests for assistance for the construction of new minimum school facilities, the Secretary announces the closing dates for the submissions of requests in a notice published in the Federal Register.

(20 U.S.C. 640)

§ 221.94 How does the Secretary compute priority indices and rank requests for new facilities under section 10?

(a) The provisions of this section apply if, in any given year, the Secretary—

(1) Decides to fund requests for assistance under section 10 of the Act for the construction of new minimum school facilities, except for replacement facilities needed as a result of a flood, fire, or other emergency; and

(2) Is unable to provide full funding of all requests.

(b) The Secretary—

(1) Computes or assigns a priority index for each request for construction according to—

(i) The applicable provisions of § 221.50; and

(ii) The provisions of this § 221.94; and

(2) Ranks each request in descending order of priority starting from the highest index.

(c) The numbers of children the Secretary uses in computing the prioirity index are the estimated numbers as of the end of the next fiscal year.

(d) The steps the Secretary uses in computing the priority index are as follows:

(1) *Step. 1* The Secretary divides—

(i) The number of children to be housed in the school facilities described in the request; by

(ii) The total number of children who both reside on and attend school on the Federal property.

(2) *Step 2.* (i) The Secretarty divides—

(A) The number of unhoused children; by

(B) The total number of children who both reside on and attend school on the Federal property.

(ii) The Secretary limits the result of Step 2 to a number that does not exceed the result of Step 1. The Secretary does this to ensure that a priority index is not

distorted by large numbers of unhoused children who would not be accommodated by the facilities described in the request.

(3) *Step 3.* The Secretary adds—

(i) The result of Step 1; to

(ii) The result of Step 2.

(4) *Step 4.* The Secretary multiplies the result of Step 3 by 100.

(e) If two or more requests have identical indices, the Secretary ranks these requests in decending order of subpriority indices computed according to the following steps:

(1) *Step 1.* The Secretary divides—

(i) The number of children to be housed in the school facilities described in the request; by

(ii) The total number of children who both reside on and attend school on the Federal property.

(2) *Step 2.* The Secretary multiplies the result of Step #1 by 100.

(20 U.S.C. 640)

§ 221.95 What terms and conditions apply to minimum school facilities operated under section 10 by another agency?

If the Secretary makes arrangements for the provision of minimum school facilities under section 10 of the Act, the Secretary—

(a) Arranges for the operation of the facilities by an agency other than the Department;

(b) Establishes terms and conditions for the operation of the facilities; and

(c) May require the operating agency to submit assurances and enter into other agreements that the Secretary specifies.

(20 U.S.C. 640)

§ 221.96 What terms and conditions apply to the transfer of minimum school facilities by the Secretary to an LEA?

If the Secretary decides to transfer to an LEA facilities that have been used to carry out the purposes of section 10 of the Act and for which the Secretary is responsible, the Secretary establishes the terms and conditions for the transfer.

(20 U.S.C. 640)

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October 15, 1984

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 866

Denial of Request To Change Classification of Toxoplasma Gondii Serological Reagents

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 83N-0200]

Denial of Request To Change Classification of Toxoplasma Gondii Serological Reagents

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order denying three requests for reclassification of the *Toxoplasma gondii* serological reagents from class II (performance standards) into class I (general controls). FDA will continue the procedure to establish a performance standard for the device.

FOR FURTHER INFORMATION CONTACT: Charles S. Furfine, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION:

History of the Proceedings

In the **Federal Register** of November 9, 1982 (47 FR 50814), FDA published a regulation, 21 CFR 866.3780, classifying the medical device *Toxoplasma gondii* serological reagents into class II. *Toxoplasma Gondii* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Toxoplasma gondii* in serum. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Toxoplasma gondii* from clinical specimens. The identification aids in the diagnosis of toxoplasmosis caused by the parasitic protozoan *Toxoplasma gondii* and provides epidemiological information on this disease.

Section 514(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d(b)(1)) and §§ 860.132(a) and 861.20(a) of FDA's regulations (21 CFR 860.132(a) and 861.20(a)) require that a proceeding for the establishment of a performance standard for a device classified into class II be initiated by publication in the **Federal Register** of a notice providing interested persons an opportunity to submit to the agency, within 15 days of the date of publication of the notice, a request for a change in the classification of the device based on new information relevant to its classification.

Accordingly, to initiate a proceeding for the establishment of a performance standard for the *Toxoplasma gondii* serological reagents, FDA published a notice in the **Federal Register** of July 8, 1983 (48 FR 31388), to allow interested persons an opportunity under section 514(b)(2) of the act to request reclassification of this device from class II into class I or class III (premarket approval). Section 860.132 of the regulations provides that any such request is to be filed in accordance with § 860.123.

In response to the notice, the College of American Pathologists, Skokie, IL 60077, Carter-Wallace, Inc., Cranbury, NJ 08512, and Electro-Nucleonic, Inc., Columbia, MD 21046, submitted to FDA timely reclassification petitions requesting FDA to change the classification of the device from class II to class I.

The Legal Standard Governing Reclassification

Section 514(b) of the act requires any such reclassification petition to set forth new information relevant to the classification of the device. The term "new information" comprehends information developed as a result of reevaluation of the data before the agency when a device was classified, as well as information not presented, not available, or not developed at that time. See, e.g., *Holland-Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174, n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966). The "new information" on which reclassification is based is required to consist of "valid scientific evidence" as defined in section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) and § 860.7 of the regulations governing medical device classification procedures. As specified in § 860.7(c), FDA relies only upon such evidence to determine whether there is reasonable assurance that the device is safe and effective.

In addition, the valid scientific evidence upon which the agency relies for the purpose of reclassification is required by section 520(c) of the act (21 U.S.C. 360j(c)) to be publicly available, i.e., the evidence may not be trade secret or confidential commercial information in (1) any premarket approval application (PMA) for a medical device or (2) any other reports obtained by the agency under any of the sections of the act that are specified in section 520(c) of the act.

The Panel's Recommendation

FDA referred the petitions to the then Microbiology Device Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, for its consideration and a recommendation on the change in classification request by the petitioners. (On April 14, 1984, the Immunology and Microbiology Devices Panel was terminated. Concurrently, FDA established the Microbiology Devices Panel (see 49 FR 17446; April 24, 1984).) During an open public meeting on September 9, 1983, the Panel considered the petitions and recommended that the *Toxoplasma gondii* serological reagents remain classified in class II.

After reviewing the petitions and the Panel recommendation, FDA determined that none of the petitions provided sufficient new, publicly available, valid scientific evidence to show (1) why the device should not remain in class II and (2) that class I would provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device will remain classified in class II.

FDA's Conclusions

The following is a summary of the petitions, the Panel's considerations, and FDA's conclusions with respect to the information and views on which the petitioners relied as grounds for their request that the agency change the classification of the device.

Labeling Requirements

1. All three petitioners claimed that the labeling requirements of § 809.10 of FDA's regulations governing in vitro diagnostic products for human use (21 CFR 809.10) are sufficient to provide reasonable assurance of the safety and effectiveness of the device. Under §809.10(b), manufacturers are required to identify, where appropriate, performance characteristics of the device (i.e., accuracy, precision, sensitivity, and specificity). This information is adequate for users to evaluate the test result information, according to two petitioners.

The Panel disagreed that the labeling requirements of § 809.10 are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel noted that it based its original recommendation that the device be classified into class II on the variability in the performance of the device (see 45 FR 27287; April 22, 1980). This problem persists, as the Panel determined from data submitted by one of the petitioners. For example, these data demonstrated that when several laboratories tested the same sample for the presence of

Toxoplasma gondii antibody, there was not any agreement among the laboratories that antibody was present. The Panel noted that these data revealed that in these tests the device provided unacceptable results. Because the submitted data showed similar variability in performance in tests conducted in 1979, 1980, and 1983, the Panel concluded that little improvement had occurred in the performance of the device since it was classified into class II in 1982, that the labeling requirements of § 809.10 were not sufficient, and that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of the *Toxoplasma gondii* serological reagents.

FDA agrees with the Panel and disagrees with the petitioners. A manfuacturer's labeling, even if it is accurate and complete, does not correct the problem of variable performance or the accuracy of individual results and, therefore, does not provide reasonable assurance of the safety or effectiveness of a device. A device for which there is otherwise no reasonable assurance of safety and effectiveness is not made safe and effective by merely warning the user of that fact in the labeling.

Class I Controls Other Than Labeling

2. Two petitioners claimed that the controls applicable to devices classified into class I are adequate to assure the safety and effectiveness of the device. Specifically, the petitioners argued that establishment inspections conducted by FDA under section 704 of the act (21 U.S.C. 374) ensure that quality control and device distribution procedures are followed and that manufacturers comply with the device current good manufacturing practice (CGMP) regulations (21 CFR Part 820). FDA's authority under section 304(g) of the act (21 U.S.C. 334(g)) to detain devices and FDA's authority under section 516 of the act (21 U.S.C. 360f) to make devices banned devices assure that dangerous or ineffective products are removed from the marketplace, according to the petitioners. A petitioner stated that the Microbiology Devices Panel was unaware of the full impact of controls applicable to class I devices and, therefore, could not determine that the *Toxoplasma gondii* serological reagents can be regulated adequately in class I.

FDA disagrees with the petitioners. To reclassify a device under section 514(b) of the act, the act and the regulations require that the new, publicly available, valid scientific evidence of safety and effectiveness show (1) why the device should not remain in its present classification and (2) that the proposed reclassification will provide reasonable assurance of the safety and effectiveness of the device. For a class II device to be reclassified into class I, the act and the regulations require such evidence of safety and effectiveness to show (1) why the device should not remain in class II and (2) that general controls will provide reasonable assurance of the safety and effectiveness of the device. The general controls are those authorized by or under sections 501 (adulteration), 502 (misbranding), 510 (registration, listing, and premarket notification), 516 (banned devices), 518 (notification and other remedies), 519 (records and reports), and 520 (general provisions, including current good manufacturing practice requirements) of the act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j). If the general controls are not sufficient to provide reasonable assurance of the safety and effectiveness of a device, the device may not be reclassified into class I (see section 513(a)(1)(A) of the act).

Although FDA recognizes that the general controls are useful in the regulation of the *Toxoplasma gondii* serological reagents test system, the agency has concluded that these controls by themselves do not provide reasonable assurance of the safety and effectiveness of the device. Data submitted by the petitioners demonstrate that a problem of variability with these devices continues to exist, i.e., different devices yield varying results from measurements on the same specimen. Compliance with the CGMP regulations under section 520(f) of the act and Part 820 of the regulations assures that the device conforms to its specifications (section 520(f)(1)(A); § 820.100). But neither the CGMP regulations nor establishment inspections under section 704 of the act provide the data to assure that the specifications are adequate to provide reasonable assurance of safety and effectiveness. Furthermore, although the CGMP regulations may reduce the problem of lot-to-lot variability for a given manufacturer, they do not address, much less reduce, the problems of manufacturer-to-manufacturer variability.

Administrative detention under section 304(g) of the act and § 800.55 of the regulations (21 CFR 800.55) is of little use in assuring the continued safety and effectiveness of a device, because section 304(g) merely provides for the temporary detention of a device, encountered during an inspection, that an authorized FDA representative has reason to believe is adulterated or misbranded under the act, until FDA has had time to consider what further action it should take concerning the device and to initiate judicial enforcement action, if appropriate (section 304(g)(1); § 800.55(a)). Similarly, making a device a banned device under section 516 of the act and Part 895 of the regulations (21 CFR Part 895) is of limited use; FDA may make a device a banned device only after the agency has determined that the device presents substantial deception or an unreasonable and substantial risk of illness or injury (section 516(a); § 895.1).

3. One petitioner added that FDA's regulations governing premarket notification procedures (21 CFR Part 807, Subpart E) ensure that FDA is advised of the proposed introduction of a new device and permit FDA to determine whether such a device is substantially equivalent to a preamendments or reclassified device.

FDA's review of premarket notification submissions under section 510(k) of the act and Subpart E of Part 808 is intended to permit the agency to determine the status of a postamendments device under section 513(f) of the act. A postamendments device, i.e., one first commercially distributed on or after May 28, 1976, is classified into class III under section 513(f) of the act unless it is substantially equivalent: (1) To another postamendments device that has been reclassified into class I or class II; or (2) to a preamendments device that has not been classified into class III. In determining whether a postamendments device is substantially equivalent to a preamendments device (one that was distributed commercially before May 28, 1976 or one that is substantially equivalent to such a device), or to a reclassified device, FDA considers whether the postamendments device presents risks and benefits not materially different from those of the preamendments or reclassified device. For a postamendments device to be "substantially equivalent," its intended use may not differ from, and its materials, design, and energy source, among other things, may not differ materially from, those of a preamendments or reclassified device. In addition, any variation between the postamendments device and the preamendments or reclassified device may not materially affect safety or effectiveness. See H.R. Rep. No. 94–853, 94th Cong., 2d Sess. 36 (1976). Congress did not intend or authorize FDA to review a premarket notification submission for the purpose of determining whether the postamendments device that is the subject of the submission is safe or effective, nor to determine whether the preamendments device, as to which it is being claimed that the device is substantially equivalent, is safe and effective. Rather, the premarket

notification submission only permits FDA to determine that the postamendments device is no less safe and effective than the preamendments device to which substantial equivalence is claimed. A determination by FDA that a postamendments device is "substantially equivalent" is thus not a determination that the device is not adulterated or misbranded and is otherwise safe and effective.

For these reasons and the reasons discussed in paragraph 2 of this notice, FDA concludes that the general controls are not sufficient to provide reasonable assurance of the safety and effectiveness of the *Toxoplasma gondii* serological reagents, and that the petitioners have not shown that a performance standard is not needed to provide such assurance.

Miscellaneous

4. Two petitioners commented that the test result is not the sole basis of the diagnosis and that the physician's role in the use of the test result should not be underestimated. Therefore, they concluded, the risk to the health of the patient from an erroneous result is reduced. Consequently, according to the petitioners, the assessment of the risk to health determined by the Panel and FDA to be presented by the device was incorrect.

The Panel disagreed with the petitioners and stated that the results from the *Toxoplasma gondii* serological reagents frequently are used as the sole basis for diagnosing toxoplasmosis from among a number of diseases which have similar symptoms. The Panel noted that the consequences of an erroneous test result (false positive) in the case of congenital toxoplasmosis may lead to an irreversible medical decision. An erroneous test result (false negative) may lead to a failure to detect toxoplasmosis with resulting brain defects or blindness in, or death of, the unborn fetus.

FDA agrees with the Panel. Additionally, although FDA agrees with the petitioners that the physician's role in the interpretation of test results should be considered, that role was considered by the Panel and the agency when the device originally was proposed to be classified into class II (see 45 FR 27288) and at the time the device finally was classified (see 47 FR 50821). The petitions do not contain any new information which establishes that either the Panel or FDA has underestimated that role.

5. One petitioner claimed that proficiency testing is an alternative to performance standards for identifying and eliminating unsafe or ineffective devices. Another petitioner submitted proficiency data from the Centers for Disease Control (CDC) to demonstrate the improvement in performance of the device. The CDC proficiency data consist of a summary of laboratory results from tests on specimens containing known amounts of antibodies to *Toxoplasma gondii*. The results are expressed in terms of a laboratory's ability to meet certain performance specifications that were compiled by CDC in cooperation with State public health laboratories, industry, universities, and other Federal agencies.

The Panel noted that proficiency testing is done primarily to measure laboratory competence and not to examine reagent performance. Moreover, the submitted data verified that there was a significant number of laboratories with poor performance to which reagent failure may have contributed. Specifically, the Panel disagreed with the claims of one petitioner that the failure of 20 percent of laboratories to meet standards established by the CDC proficiency testing program demonstrates that device performance has improved. The Panel stated that the CDC proficiency data failed to demonstrate any marked decrease in the variation of test results and, therefore, any improvement in reagent performance.

FDA agrees with the comments made by the Panel and disagrees with the petitioners. Moreover, even if the data submitted by the petitioners demonstrated improved proficiency of the *Toxoplasma gondii* serological reagents, that alone does not show that class I controls would provide reasonable assurance of the safety and effectiveness of the device, because the petitioners have not demonstrated that device performance has improved sufficiently or that satisfactory device performance would continue with the application of class I controls only. As stated in paragraphs 2 and 3 of this notice, FDA believes that continued satisfactory performance cannot reasonably be assured by class I controls.

6. Two petitioners commented that there are few reports of problems with the *Toxoplasma gondii* serological reagents, despite various problem-reporting mechanisms, including FDA's Device Experience Network (DEN). One petitioner estimated that in 1980 there were as many as 900,000 tests done, and asserted that any problems would have appeared. Another petitioner claimed that the ratio of complaints to sales of the petitioner's *Toxoplasma gondii* serological reagents was .0086 in the year ending June 30, 1983.

The Panel commented on the frequency of complaints about the device. The Panel noted that many laboratories use only one test method for determining the presence of antibodies to *Toxoplasma gondii* in submitted specimens and do not use a confirmatory test. It is difficult for these laboratories to judge performance because there is not any standard by which users can evaluate effectiveness. A few laboratories use more than one device to provide results from tests on a single specimen, but it is nevertheless not possible to determine which result is accurate when discordant results are obtained.

Laboratories frequently obtain discordant results, as confirmed by the data submitted in the petitions, and the Panel stated that the high frequency of discordant results precludes a determination of which devices are not safe and effective. The Panel observed that the inability of a laboratory to identify which *Toxoplasma gondii* serological reagents are performing poorly may be the reason few device problems are reported.

FDA agrees with the Panel. Based on its experience, FDA does not believe that information about all adverse device experiences is provided to FDA under the existing voluntary system of reporting medical device problems, including DEN (see the preamble to the final rule on medical device reporting; 49 FR 36326 at 36328; September 14, 1984).

References

A copy of the petitions and the transcript of the Panel meeting are on file under the docket number found in brackets in the heading of this notice in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

Order

For the reasons set out above, FDA is issuing an order under section 514(b)(2) of the act denying the petitioners' requests for reclassification of the *Toxoplasma gondii* serological reagents from class II into class I.

In accordance with § 816.20(c), FDA will continue the procedure by which a performance standard for the *Toxoplasma gondii* serological reagents may be established. In a future issue of the **Federal Register** the agency will publish an invitation for standards under section 514(c) of the act.

Dated: October 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

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H.J. Res. 663 / Pub. L. 98–461

Making further continuing appropriations for fiscal year 1985. (Oct. 10, 1984; 98 Stat. 1814) Price $1.00

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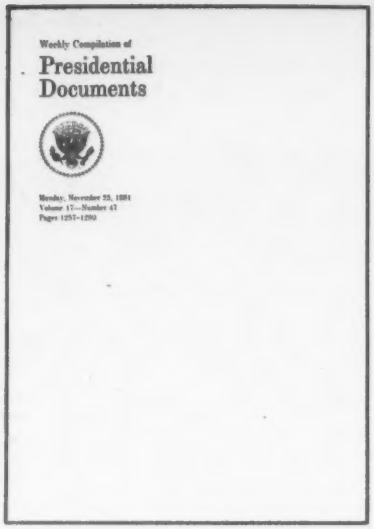

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